

BEFORE THE

IN THE MATTER OF: )  
 )  
REGULAR MONTHLY BUSINESS )  
MEETING )  
 )

3 CHAIRMAN EATON: Morning, everyone. Left  
4 out the word "good" for personal reasons, but welcome  
5 back. We're back to our second day of our January Board

6 meeting.

7                   For those of you who weren't here yesterday  
8 and heard the various announcements, in the back there are  
9 speaker slips. If you wish to speak on any item on  
10 today's remaining agenda, if you'll kindly fill out that  
11 slip and hand it to Ms. Dominguez, it will be duly  
12 processed so we can hear from you.

13                   In addition, I will begin on my left with  
14 ex partes, but before I do, I did receive and I think most  
15 Members, if you haven't received it received another  
  
16 letter from Jerry Jamgotchian regarding the matter on  
17 Hawthorne. And so for purposes of all of us, I'll just  
18 put that as an ex parte to all of us.

19                   Mr. Pennington.

20                   BOARD MEMBER PENNINGTON: Yes,  
21 Mr. Chairman. One, I'm here. And two, I have no other ex  
22 partes other than the one you just mentioned.

23                   CHAIRMAN EATON: You're absolutely right,  
24 Mr. Pennington. It's been few too many hours. I just  
25 thought we were in recess. I probably should establish a

1 quorum on the roll.

2 Madam Secretary, would you please call the  
3 roll. Thank you for reminding me.

4 BOARD SECRETARY: Board Members Jones.

5 BOARD MEMBER JONES: Here.

6 BOARD SECRETARY: Moulton-Patterson.

7 BOARD MEMBER MOULTON-PATTERSON: Here.

8 BOARD SECRETARY: Pennington.

9 BOARD MEMBER PENNINGTON: Here.

10 BOARD SECRETARY: Roberti.

11 BOARD MEMBER ROBERTI: Here.

12 BOARD SECRETARY: Chairman Eaton.

13 CHAIRMAN EATON: Here. Thank you.

14 Mr. Jones.

15 BOARD MEMBER JONES: Thank you,  
16 Mr. Chairman. Yeah, I got the fax from Jerry Jamgotchian.  
17 I also had a brief discussion with Mike Mohajer on the --  
18 some of the southern California issues and a brief  
19 discussion with Mr. Cupps.

20 BOARD MEMBER PENNINGTON: Yes. I did  
21 forget to mention that I had an exchange with Mr. Cupps  
22 over my tie.

23 (Laughter)

24 BOARD MEMBER JONES: I hope it was  
25 amicable.

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1 CHAIRMAN EATON: Ms. Moulton-Patterson.

2 BOARD MEMBER MOULTON-PATTERSON: I have no  
3 new ones other than what you mentioned.

4 CHAIRMAN EATON: Senator Roberti.

5 BOARD MEMBER ROBERTI: No ex partes.

6 CHAIRMAN EATON: I also had a brief  
7 encounter of the third kind with Mr. Cupps --

8 (Laughter)

9 CHAIRMAN EATON: And a meet-and-greet with  
10 Peter Weiner today.

11 In addition, for those of you who may not  
12 have stayed to the late hours last evening, today as per  
13 the agenda we will start off with Agenda Item Number 3,  
14 which is a public hearing for the consideration of the  
15 appeal of denial of the waste tire hauler registration for  
16 MB Opportunities, Waste Tire Hauler Number 0107.

17 Upon completion of that item, we will then  
18 pick up on the agenda where we left off last evening, and  
19 we left off after completing Item Number 35, and we will  
20 start with Item Number 36 and proceed to finish the agenda  
21 in the order as it is set forth in the agenda that was  
22 publicly noticed. So if we have no further comments or  
23 reports, we can begin with Item Number 3.

24 Before we do, I have a brief introductory  
25 statement that we are now going to open the public hearing

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1 for MB Opportunities regarding denial of a waste tire  
2 hauler registration. The format of this hearing will  
3 follow the general procedures previously adopted by this  
4 Board. First, the court reporter will swear in the  
5 witnesses, then the Board staff will present its case. It  
6 will be followed by MB Opportunities presenting their  
7 case. Thereafter, upon completion of that presentation by  
8 each side, each side will then have ten minutes for  
9 rebuttal.

10                   Once each side has presented its case, the  
11 Board Members here may ask questions and the Board's role  
12 will be that of a finder of fact, similar to that of a  
13 jury. Any questions should be limited to the evidence  
14 presented at today's hearing. Our deliberations will  
15 occur on the record after the case is presented and if  
16 there are no further questions. After such deliberations  
17 here in public, we will announce our decision.

18                   With that I ask that the hearing begin.  
19 Mr. Fitzgerald.

20                   MR. FITZGERALD: Mr. Chairman, before the  
21 formal hearing begins and swearing in, I would just like  
22 to make a few comments on the tire enforcement program to  
23 put this in perspective.

24                   The enforcement program has been pretty  
25 much staff driven. Most of the actions that take place

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1 take place outside of the Board hearings instead of the  
2 administrative level. The goal of the program has been  
3 compliance, to get the sites cleaned up. In the last five  
4 years we've been very successful in this. We've inspected  
5 over 461 sites. They've issued -- it hasn't been a paper  
6 tiger program by any stretch of the imagination. There  
7 have been 265 C and A orders, and 32 criminal complaints  
8 have been issued in the last five years.

9                   So basically we've done an excellent job in  
10 cleaning up. We haven't done quite as good a job in  
11 keeping the Board apprised of how the program has  
12 functioned and where we're going on this, and so I would  
13 like to touch on a couple of things that we're going to do  
14 in the future that will bring the Board more into the  
15 picture and give you a better understanding of what this  
16 program is.

17                   We've started meeting -- for example, the  
18 staff started meeting with the Legal Office every two  
19 weeks and we're going through each of the infractions that  
20 we find throughout the program in detail so everyone  
21 understands what's going on within the staff. We're going  
22 to review our procedures to make certain that the two key  
23 elements, fairness and consistency, are improved  
24 throughout the program. We haven't had major problems at  
25 all, but we want to fine tune it. Once we finish this

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1 effort, we want to come back before the Board and let you  
2 know what it is so you can -- we can get your input on the  
3 program and make any adjustments that the Board feels  
4 that's necessary. So basically we want a better Board  
5 participation and understanding of the program and I'm  
6 certain you share that.

7                   Now, the particular hearing we have today I  
8 would like to put it in perspective. There are 800  
9 haulers registered within the state of California.  
10 Annually they have to renew their registration the first  
11 of the year. This year we sent out ten letters to  
12 different haulers that we were not going to renew their  
13 registration. Six of those haulers we had negotiated with  
14 and cleared up the issues that caused us to issue those  
15 letters. There are still four haulers in the state that  
16 have letters of non-issuance of permits. Two of those  
17 four have appealed, and one of those appeals is what  
18 you'll be hearing today. So 800 haulers, two appeals, and  
19 that's where we are today.

20                   So without further adieu, I'll turn it over  
21 to Lynda Williams so she can start the hearing.

22                   CHAIRMAN EATON: Thank you for the delicacy  
23 of handling the situation so we wouldn't have any facts  
24 that would be put into evidence without being sworn in and  
25 just giving us the procedural nature of these types of

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1 cases.

2 If we could have the legal considerations  
3 and opening statements by Lynda Williams who is staff  
4 counsel. Before you're ready to begin, is there a  
5 representative here from MB Opportunities?

6 MR. BALL: Yeah, me.

7 CHAIRMAN EATON: Great. Thank you very  
8 much.

9 MS. WILLIAMS: Thank you, Chairman Eaton.  
10 Good morning, Members of the Board. I'm going to give a  
11 brief overview of what you'll be hearing this morning in  
12 the way of evidence regarding the denial of a registration  
13 for Waste Tire Hauler Number 0107, MB Opportunities, also  
14 known as Michael Ball.

15 The California Integrated Waste Management  
16 Board has the authority to inspect, permit, regulate and  
17 conduct enforcement actions against waste tire facilities  
18 and waste tire haulers pursuant to Public Resources Code  
19 Section 42800 et seq, and also attending regulations  
20 contained in Title 14 of the California Code of  
21 Regulations.

22 Michael Ball, owner and operator of MB  
23 Opportunities, became a registered waste tire hauler by  
24 the California Integrated Waste Management Board on or  
25 about November 3rd of 1994. He owns and operates the

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1 hauling business and is responsible for waste tires that  
2 have recently been deposited in the past year, 1999, at  
3 his mother's residence at 18231 West Clinton Road in  
4 Jackson. This site, as you will hear, is not a permitted  
5 waste tire facility.

6                   On June 17th, 1999, Mr. Cambridge and  
7 Mr. Cody Begley, both of the California Integrated Waste  
8 Management Board, investigated the site at West Clinton  
9 Road and documented several violations. You'll hear that  
10 these violations, mostly out of the California Code of  
11 Regulations, include violation of provision for adequate  
12 fire prevention, adequate facility access and site  
13 security, adequate vector controls, and inappropriate  
14 storage of waste tires.

15                   Mr. Cambridge will tell you that he  
16 estimated that approximately or at least 7,000 waste tires  
17 or tire equivalents were being stored at the property at  
18 the time of his inspection. The act of depositing the  
19 waste tires at the site is a violation of Public Resources  
20 Code Section 42951, sub B. Now, in the binders that you  
21 have before you, I have attached copies of the code  
22 sections and the statutes that will be referred to during  
23 the course of this hearing, and I believe you'll find  
24 those behind black tab number 2.

25                   On the second page, 42951 sub B states

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1 specifically that a registered waste tire hauler who  
2 transports waste tires to a facility that is not a waste  
3 tire facility as defined in Section 42808, or a landfill  
4 pursuant to 42866, or a facility that is authorized to  
5 accept waste tires pursuant to a state or local agency  
6 permit, or a facility which lawfully accepts waste tires  
7 for reuse or disposal shall be subject to the civil  
8 penalty to be imposed under Section 42962.

9                   So essentially what you'll hear today is  
10 that Michael Ball, operating as MB Opportunities, violated  
11 this section by hauling, using his registration, waste  
12 tires to an unpermitted or unauthorized facility.

13                   What I propose at this time to do is to  
14 call Investigator Keith Cambridge who has prepared a  
15 presentation. You'll find the color copies of his  
16 presentation attached also in your binders at black tab 7,  
17 almost to the end of your binders.

18                   And with that, I will turn it over to  
19 Mr. Cambridge.

20                   CHAIRMAN EATON: Ms. Williams, how many  
21 witnesses will you be having?

22                   MS. WILLIAMS: I anticipate calling also  
23 Amalia Fernandez and Cody Begley very briefly just to  
24 describe the hauler registration process.

25                   CHAIRMAN EATON: If it meets with your

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1 approval and Mr. Ball's approval, I would like to be able  
2 to swear in all of the witnesses now in one procedure. I  
3 assume you will be testifying as well as a witness, so if  
4 you wouldn't mind I'll swear you all in at the same time  
5 for purposes of efficiency in this proceeding. So if you  
6 will kindly raise your right hand and the court reporter  
7 will swear you in.

8 BOARD REPORTER: Do you solemnly swear that  
9 the testimony you are about to give shall be the truth,  
10 the whole truth, and nothing but the truth.

11 (All witnesses answer in the affirmative)

12 CHAIRMAN EATON: Thank you. You may  
13 proceed.

14 MR. BEGLEY: Good morning, Mr. Chairman and  
15 Members of the Board. What I'm going to show you on the  
16 screen is basically a chronological order of the West  
17 Clinton Road waste tire site and chronological summary of  
18 the events that have taken place with that site. The  
19 first picture, please.

20 On April 1st, 1996, Michael Keffer and I,  
21 accompanied by Margaret Blood of the Amador County Health  
22 Department, conducted a waste tire facility inspection at  
23 18231 West Clinton Road, Jackson, California, hereinafter  
24 known as West Clinton Road waste tire site. At that time  
25 I estimated that at least 7,000 waste tires were being

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1 stored on this property. That same day, Mr. Keffer,  
2 Ms. Blood and I conducted another waste tire facility  
3 inspection located at 11941 Highway 88, Martel,  
4 California,  
5 hereinafter known as the Fine and Sons waste tire site.  
6 Mr. Ball was responsible for the storage of more than  
7 10,000 waste tires and tire equivalents at this location.

8 On September 26th, 1996, Administrative  
9 Complaint Number 9629-A was issued to Mr. Ball concerning  
10 the West Clinton Road waste tire site and the failure to  
11 remove the waste tires from this location. After the  
12 hearing, the tires were removed by Mr. Ball.

13 On July 22nd, 1997, Administrative  
14 Complaint Number 9724-AC was issued to Mr. Ball concerning  
15 the Fine and Sons waste tire site and the failure to  
16 remove the tires from this location as well. Once again,  
17 Mr. Ball, after the hearing, removed the tires.

18 These following three pictures will depict  
19 the West Clinton Road waste tire site which is a  
20 residential property located up in the outside of Jackson,  
21 California. During this time we had estimated  
22 approximately 7,000 tires being stored in the backyard of  
23 this property. Next slide, again another picture of the  
24 property. Next picture.

25 This is an overall view taken from a small

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1 water aqueduct above. To the far left-hand corner -- up  
2 in the top left-hand corner you can see the residence and  
3 the backyard is completely full of tires. Next picture  
4 please.

5                   On June 17th, 1999, Cody Begley and myself,  
6 as a result of the complaint from the Amador County Health  
7 Department, conducted another inspection of the West  
8 Clinton Road waste tire site. My rough estimate showed  
9 that approximately 7,000 waste tires, mostly tire  
10 equivalents, were again being stored at this property. A  
11 letter of violation dated June 17th, 1999 was addressed  
12 and posted by U.S. mail to Mr. Ball concerning the  
13 deposition of waste tires at the West Clinton Road waste  
14 tire site and required that the tires be removed by August  
15 1st, 1999.

16                   On July 22nd, 1999, I conducted another  
17 site visit by myself and Mr. Begley, and a more accurate  
18 number of tires were estimated to be approximately 11,300  
19 waste tire equivalents. And I mention equivalents because  
20 the majority of the tires are basically pieces of waste  
21 tire treads that he had stacked on the site.

22                   On August -- on July 26th, a letter was  
23 addressed and posted by U.S. mail to Mr. Ball granting him  
24 until September 1st, 1999 to remove the waste tires and  
25 tire shreds from this location. On August -- can I have

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1 the other picture please.

2                   On August 19th, 1999, a letter was  
3 addressed and posted by U.S. mail to Mr. Ball, once again,  
4 granting him one more time extension from September 1st,  
5 1999 to September 17th, 1999 per his request for the  
6 removal of the waste tires. On September 7th, 1999, a  
7 letter was received from Mr. Ball requesting yet another  
8 time extension to October 1st, 1999. The letter was  
9 addressed and posted to Mr. Ball denying the extension of  
10 time on this particular request.

11                   On September 30th, 1999 another letter was  
12 received by Mr. Ball requesting another time extension to  
13 October 20th, 1999. Again, this was denied by the Waste  
14 Board. Can I have the next picture, please.

15                   On December 28th, 1999 I conducted a site  
16 visit of the site and it revealed less than 500 tires on  
17 the property at this time. The operator submitted  
18 manifests for all the tire shreds -- or tire equivalents  
19 that were removed from the site and the operator's  
20 estimation was approximately 30,000-plus tire equivalents  
21 or 343 tons which had been removed to a landfill. Can I  
22 have the next picture, please.

23                   This depicts the pictures of what we had  
24 seen out during the June and July site visits of the site.  
25 The operator was cutting up the tires, taking the

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1   sidewalls, I believe, for silage covers and the remainder  
2   of the tires were being stacked in this fashion. He was  
3   trying to provide some sort of stability to his aqueduct,  
4   feeling that this was a lawful use of the tires. Next  
5   picture, another shot of the tires against the aqueduct.

6                   Next picture. Next picture. Next picture.

7   This is the aqueduct up on top that apparently was, I  
8   guess, from the operator's statement leaking in a few  
9   places and the reason for him placing all these tires  
10  against the aqueduct.

11                   Basically this concludes my presentation.

12                   CHAIRMAN EATON: Any questions of  
13  Mr. Begley?

14                   MS. WILLIAMS: If I may ask a few  
15  questions.

16                   CHAIRMAN EATON: Sure. Please.

17                   MS. WILLIAMS: Is the override still on my  
18  mike?

19                   CHAIRMAN EATON: I think it just hasn't  
20  been turned on because ours are working.

21

22                   EXAMINATION

23  BY MS. WILLIAMS:

24                   Q.     Mr. Cambridge, I know it's difficult. You  
25  can't see me. Did you note that the tires were stored in

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1 any way to violate any other portions of the California  
2 Code of Regulations?

3 A. Basically at that time he was -- the  
4 violations noted were site security, storage of waste tire  
5 regulations, which is Section 17354 of the Title 14, and  
6 vector control, and I believe fire prevention measures.  
7 He may have had some fire equipment measures on the site.

8 Q. How, for example, did you assess that this  
9 storage violated any portion, for example, of the fire  
10 prevention measures which were not at the site? Do you  
11 recall?

12 A. Could you repeat the question?

13 Q. Of the four sections that you just  
14 mentioned under 17351, failure to provide adequate fire  
15 prevention measures which were not at the site.

16 A. I believe he did not have a pike pole, and  
17 I believe he had shovels but I did not see a fire  
18 extinguisher on the site.

19 Q. And regarding 17352, the access and  
20 security?

21 A. There was no fencing or any sort of  
22 prevention from intrusion onto the property.

23 Q. Is there any violation of vector control?

24 A. There is -- basically when we go out to a  
25 site we establish -- we did not see the mosquito breeding.

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1   However, if you do not have a vector control measure in  
2   place you're in violation of that unless you have written  
3   approval from the local vector control authority.

4           Q.     And to your knowledge have you seen or did  
5   he present any vector control authority sign-offs to you?

6           A.     No, he did not.

7           Q.     And finally, there's a violation for  
8   storage. And can you specify exactly how that section is  
9   violated?

10          A.     Yes. Basically the storage of waste tires,  
11   the tires were stored next to vegetative growth and  
12   basically that is the main problem we had there.

13          Q.     So essentially this was -- despite the  
14   respondent's perception this was a lawful storage, it was  
15   at a minimum an unsafe storage of the tires?

16          A.     Correct.

17                   MS. WILLIAMS: I have nothing further.

18                   CHAIRMAN EATON: Any questions?

19                   BOARD MEMBER JONES: Mr. Chairman.

20                   CHAIRMAN EATON: Mr. Jones.

21                   BOARD MEMBER JONES: I have a couple of  
22   questions.

23

24                   EXAMINATION

25   BY BOARD MEMBER JONES:

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1           Q.       The first tire piles that we saw was the  
2 deal we had already dealt with when we issued the order  
3 and the fines; right?

4           A.       That's correct. That was in '96 and he  
5 cleaned up the site.

6           Q.       So that site was void of tires. He  
7 completed that one. He got all those tires out?

8           A.       That's correct.

9           Q.       These were new tires that came in?

10          A.       Correct.

11          Q.       There was a picture -- I don't know if  
12 Terry can bring it back. There was a picture two or three  
13 back. I have a question on our -- and I want this -- I  
14 want to make sure that we -- does this fall into the realm  
15 of a civil engineering project for shreds and --

16                 MR. CAMBRIDGE: We never received an  
17 application or a plan and I checked with the County of  
18 Amador and they hadn't either. I met the LEA out there  
19 and Mr. Ball claimed that he was going to build a  
20 retaining wall out of the shreds and the County had  
21 approved it and he had not been able to verify that and we  
22 have never seen any civil engineering plan.

23                 BOARD MEMBER JONES: That was my next  
24 question. Was it an engineered -- you don't know if it  
25 was an engineered use.

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1                   MR. CAMBRIDGE: We -- he never submitted a  
2 plan to us so we don't know.

3                   BOARD MEMBER JONES: I'll ask the question  
4 later when Mr. Ball is up because I just want to make sure  
5 that we're -- we have two tracks that we go down, and  
6 civil engineering projects are one that we promote. And I  
7 just want to make sure that the criteria we set forward  
8 for civil engineering projects haven't been overlooked.  
9 And I'm not saying they are, but that's why we're having a  
10 hearing.

11                  CHAIRMAN EATON: Any other questions? I  
12 have just a couple. My understanding is that he was -- MB  
13 Opportunities was granted an extension of time from  
14 approximately July 26th, 1999 to September 1st, 1999,  
15 according to your testimony.

16                  MR. BEGLEY: That's correct. That was the  
17 first deadline we gave him.

18                  CHAIRMAN EATON: During that time were any  
19 of the tires or tire shreds removed during that period of  
20 time that you're aware of?

21                  MR. BEGLEY: Yes. I believe that some  
22 tires were removed. However, Mr. Ball was running into  
23 complications, whether breakdown of vehicles or financial  
24 means, I believe. I'll let him explain that a little bit  
25 later, but he requested I believe four different time

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1 extensions. And the problem with time extensions were  
2 they were two or three weeks apart versus a larger  
3 segment, so that's why we gave him a couple of time  
4 extensions extending it to a reasonable time.

5 CHAIRMAN EATON: During those requests, did  
6 you have an opportunity to visit that site during those  
7 times?

8 MR. BEGLEY: Not between --

9 CHAIRMAN EATON: September 1st, I think;  
10 correct?

11 MR. BEGLEY: Right. And December 28th.

12 CHAIRMAN EATON: And it was on December  
13 28th that you were able to --

14 MR. BEGLEY: Verify that the tires had been  
15 removed.

16 CHAIRMAN EATON: Thank you. Any other  
17 questions?

18 Ms. Williams, your next witness.

19 MS. WILLIAMS: My next questions are for  
20 Amalia Hernandez.

21

22 EXAMINATION

23 BY MS. WILLIAMS:

24 Q. Ms. Fernandez, by whom are you currently  
25 employed?

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1           A.       My name is Amalia Fernandez and I'm  
2 currently employed by the California Integrated Waste  
3 Management Board Waste Tire Management Branch of the  
4 Special Waste Division.

5           Q.       And what are your responsibilities?

6           A.       I'm responsible for the waste tire hauler  
7 program. As such, I'm custodian of the records for the  
8 waste tire hauler program.

9           Q.       And as a part of your duties, did you  
10 review the record regarding MB Opportunities today?

11          A.       Yes, I did.

12          Q.       And can you tell us when was the first time  
13 that Mr. Ball operating as MB Opportunities first received  
14 a registration from the Board?

15          A.       On or around November 3rd, 1994.

16          Q.       And has he operated every year annually  
17 since that time?

18          A.       Yes. He has renewed the registration as  
19 required by regulations.

20          Q.       Regarding the year for 1999, are you aware  
21 of whether he was -- did he submit an application?

22          A.       Yes, he did. Board staff received an  
23 application for renewal on October 18th, 1999 from MB  
24 Opportunities for the year 2000.

25          Q.       And do you -- are you aware of whether a

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1 response was issued regarding that application?

2 A. Yes, I am. On November 3rd, Board staff  
3 sent a letter to MB Opportunities denying the year 2000  
4 waste tire hauler registration.

5 Q. I'll just show you a copy. Is this the  
6 letter?

7 A. Yes, it is.

8 Q. Okay.

9 MS. WILLIAMS: Do you want to mark these  
10 and --

11 CHAIRMAN EATON: Sure. And if you could  
12 just for identification purposes for the record indicate  
13 that it's a letter from --

14 MS. WILLIAMS: From the Board?

15 CHAIRMAN EATON: From the individual, that  
16 would be helpful. Mark that as Exhibit 1.

17 MS. WILLIAMS: So I ask that Exhibit 1 be  
18 marked, and that is the letter from the Board to Mr. Ball  
19 on December 3rd, 1999 indicating that his waste tire  
20 hauler registration would not be renewed.

21 CHAIRMAN EATON: Mr. Ball would have a copy  
22 of that letter? Are you -- okay.

23 MR. BALL: Did I get a copy of it? Yes.

24 CHAIRMAN EATON: Mr. Ball, in case he  
25 doesn't have a copy of that letter.

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1 Q. BY MS. WILLIAMS: And do you know whether  
2 or not a hearing was held regarding the denial of that  
3 waste tire hauler registration for 1999?

4 A. It's being held today on January 26th, year  
5 2000.

6 Q. Was there a previous hearing for his 1999  
7 hauler registration?

8 A. Oh, I see. Yes. There was a hearing in  
9 February of 1999 --

10 Q. Okay.

11 A. -- for it, the same type of action for  
12 denying --

13 Q. Okay.

14 A. -- the waste tire hauler registration.

15 Q. And do you recall what were the grounds for  
16 denying the waste tire hauler registration?

17 A. Yes, I do.

18 Q. What were those grounds?

19 A. I believe it was for storing tires at an  
20 unpermitted facility.

21 Q. Okay.

22 MS. WILLIAMS: I'd like at this time -- I  
23 do not at this moment have further questions for  
24 Ms. Hernandez. I would just like to refer the Board  
25 Members to -- it's, I believe, black tab number 5. It's

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1 the amended statement and memorandum in support of this  
2 action, and all the white tabs that you see behind that  
3 are attachments, and these attachments are pretty much --  
4 they substantiate the history of MB Opportunities  
5 regarding enforcement actions with the Board and I just  
6 want to walk you briefly through them.

7                   They tell a pretty quick story, and they  
8 are all referenced in the amended statement of memorandum  
9 which I will be presenting in closing arguments, but for  
10 the Board's reference, Cleanup and Abatement Order Number  
11 9622 is attached at white tab number 1. That was issued  
12 in 1996 regarding the West Clinton Road waste tire site to  
13 which Mr. Cambridge has earlier testified when  
14 approximately 7,000 tire equivalents were being stored  
15 unpermitted at that site.

16                   The administrative complaint that was  
17 subsequently issued is attached at white tab 2. That's  
18 Administrative Complaint 9629-A. A decision pursuant to  
19 stipulation was issued. That's attached at white tab 3  
20 for that West Clinton site.

21                   Also in 1996, attached at white tab 4, a  
22 Cleanup and Abatement Order, Number 9640, was issued for  
23 the Fine and Sons site as testified to by Mr. Cambridge.  
24 That Cleanup and Abatement Order was not observed and  
25 ultimately resulted in Administrative Complaint 9724-AC.

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1 That's attached at white tab 5. The Administrative  
2 Judge's decision for that AC is attached at white tab 6.  
3 A November 17th letter, 1998, addressed to Mr. Ball and  
4 signed by Keith Cambridge, informing him of the violations  
5 at the West Clinton Road site is attached at white tab 7.  
6 White tab 8 is a December 29th letter and from -- signed  
7 by Cody Begley for Bernard Vlach denying the renewal of  
8 Waste Tire Hauler 1007 is at white tab 8.

9 And then the resolution that resulted in  
10 the hearing that was held, I believe, on February 3rd,  
11 1999 is attached at white tab number 9. I'm sorry. It  
12 may be February 23rd. And finally, the report referenced  
13 by Mr. Cambridge, which is a letter also of violation that  
14 was mailed to Mary Ball and Michael Ball for the most  
15 recently documented violations at the West Clinton Road  
16 site.

17 For the sake of simplicity, Mr. Chairman, I  
18 would like that these be marked as State's Exhibit 2 with  
19 the sub-attachments.

20 CHAIRMAN EATON: That would be fine. While  
21 we're doing that, do the Board Members have any questions  
22 of, first off, Ms. Fernandez? She was -- Senator Roberti.

23 BOARD MEMBER ROBERTI: Yes. Just a couple  
24 of points to clarify. Mr. Ball is here asking for a new  
25 permit. What I'm interested in is what Mr. Ball did to

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1 clean up this site or did he violate any order since he  
2 was last here. From what I understand, the site is now  
3 clean but it took a little while. It took longer than  
4 what we had requested. So I would like to know from both  
5 our staff and Mr. Ball what the reason for that is. Then  
6 the other point is was there any reimportation of tires to  
7 any site.

8 MS. WILLIAMS: With the Senator's  
9 permission -- I'm sorry.

10 BOARD MEMBER ROBERTI: Yes. Those are the  
11 two questions in my mind, not that everything else isn't  
12 important, but those are important because it goes to  
13 Mr. Ball's intent after he was last here before the Board  
14 as to whether he's been trying to comply or whether he's  
15 just disregarding us as an unnecessary nuisance.  
16 That's --

17 MS. WILLIAMS: With the Senator's and the  
18 Chairman's permission, I would like to ask which of the  
19 witnesses wish to address that, and I ask that Mr. Ball  
20 respond to that question during his case-in-chief.

21 BOARD MEMBER ROBERTI: Okay.

22 MR. CAMBRIDGE: Mr. Roberti, basically  
23 since the last hearing we had -- Mr. Ball had the site  
24 cleaned, or when we became aware of it again back in June  
25 this last year in 1999, we then discovered that he had at

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1 that time 7,000 to 11,000 waste tire equivalents or the  
2 tire pieces located on the property.

3 When we became aware of that, he was  
4 compliant with us and did try to remove the tires due to  
5 unforeseen circumstances as I previously mentioned.

6 BOARD MEMBER ROBERTI: You're saying when  
7 he became aware of it. He was not aware of the 7,000 to  
8 11,000?

9 MR. CAMBRIDGE: No -- let me back up. He  
10 was aware that he transported the tires there and put  
11 these tires pieces there. When we became aware of the  
12 site, we then told him he needed to remove the tires and  
13 at that time he started removing the waste tires.

14 BOARD MEMBER ROBERTI: Were these tires  
15 transported -- when were those tires transported to the  
16 site?

17 MR. CAMBRIDGE: To the site or from the  
18 site?

19 BOARD MEMBER ROBERTI: To the offending  
20 place.

21 MR. CAMBRIDGE: I believe, according to  
22 Mr. Ball, sometime between January and May or --

23 BOARD MEMBER ROBERTI: Okay. That was  
24 before he was here or that was after he was here?

25 MR. CAMBRIDGE: It was possibly a month

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1 before and also after the time he was here. He was here  
2 in February 1999.

3 BOARD MEMBER ROBERTI: So all during that  
4 time these tires were being --

5 MR. CAMBRIDGE: Brought to his location.

6 BOARD MEMBER ROBERTI: I guess we'll have  
7 to ask him why. Were we ever made aware of those tires?

8 MR. CAMBRIDGE: Not until June with Amador  
9 County Health Department receiving the complaint and we  
10 investigated the site.

11 BOARD MEMBER ROBERTI: Mr. Chairman, would  
12 it be proper to ask Mr. Ball while he was here -- it is  
13 evidently alleged that there were 7,000 to 11,000 tires  
14 being imported to a site that he had and we didn't know  
15 about that. Maybe now is the time to ask Mr. Ball what  
16 the reason for that was.

17 CHAIRMAN EATON: I think we can dispense  
18 with formalities and get right to the point.

19 BOARD MEMBER ROBERTI: Yeah.

20 CHAIRMAN EATON: If that meets with  
21 stipulation from Counsel because you're absolutely right.  
22 And I was just going back through the resolution prompted  
23 by your questions. We had a certain set of conditions as  
24 well.

25 BOARD MEMBER ROBERTI: Right.

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1 MS. WILLIAMS: You'll need the podium.

2 MR. BALL: It was my understanding --

3 CHAIRMAN EATON: Kindly state your name for  
4 the record.

5 MR. BALL: My name is Michael Ball --

6 CHAIRMAN EATON: Thank you.

7 MR. BALL: -- owner of MB Opportunities.

8 It was my understanding that as long as I kept under 500  
9 tires on the property that there would be no problem,  
10 according to Cambridge. The last time he came up and  
11 checked me off he said as long as there's under 500 tires,  
12 there would be no problem.

13 BOARD MEMBER ROBERTI: He's saying there  
14 was 7,000 to 11,000 tires.

15 MR. BALL: Yeah. Well, let's get to that  
16 next. Okay. So at that point we kept under 500 tires and  
17 operated. Usually my sidewalls would go to the dairies.  
18 The rest would go to Sacramento landfill or whatever else  
19 we could get going. We took some down to Westley, down to  
20 MELP, and at that time I asked Margaret Blood at the  
21 County. I said have you got a problem with me building  
22 this retaining wall up against this ditch? She goes well,  
23 nobody really cares about this thing. If no one has got  
24 any objections, then we started doing that at that point.

25 We did ask her, and we also asked the

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1 Supervisor of Amador County, Louis Boytano, and he came up  
2 and personally looked at it. I was clean -- doing a  
3 cleanup for him. Shortly after my license was reinstated,  
4 we jumped right to a cleanup on his property and I told  
5 him about my project, and he said well, you're in a gray  
6 area there. I said well, I think I might be. He said we  
7 don't want our tires going there. So not all tires that  
8 we collected went there.

9 I told each one of my customers what I was  
10 doing and the ones that said okay, we took it there. We  
11 thought we were legal. We didn't know that there -- I  
12 even --

13 BOARD MEMBER ROBERTI: Did Amador County  
14 give you any official clearance?

15 MR. BALL: Not on paper, and to this date  
16 they said what's going on with you, and I said well, right  
17 now my license is being yanked. They said well, you get  
18 it all straightened out and we'll work with you on it.  
19 We'll do it.

20 I had that thing engineered by an engineer  
21 and he came out there and he said it was the most  
22 impressive thing that he had ever saw. He was all over  
23 it. He was there for two hours. As far as waste tires  
24 goes --

25 BOARD MEMBER ROBERTI: You're holding a

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1 bill. How much did the engineer cost?

2 MR. BALL: For him to come out and tell me  
3 it was a good deal, \$180, but I called him three times  
4 since. He has not returned my call, and then coffee shop  
5 talk is that he supposedly is trying to set this up back  
6 east somewhere.

7 BOARD MEMBER PENNINGTON: But he didn't  
8 give you anything in writing other than the bill.

9 MR. BALL: Other than this right here, the  
10 engineered retaining wall, I got the paid receipt and he  
11 has not returned my calls. I've called three times.

12 BOARD MEMBER ROBERTI: What is the date of  
13 all that?

14 MR. BALL: This is right after they came.  
15 Cody said that it would have to be engineered and  
16 (inaudible) if it was going through. The date on this is  
17 7-29-99, and that was right when the tires were there. I  
18 got him there so he could see.

19 BOARD MEMBER ROBERTI: But now Amador  
20 County did not give you a clearance or a permit or  
21 whatever the word is?

22 MR. BALL: A verbal.

23 BOARD MEMBER ROBERTI: They did give you a  
24 verbal?

25 MR. BALL: Yes. And as far as --

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1                   BOARD MEMBER ROBERTI: Is there anybody  
2 here from Amador County who --

3                   MR. BALL: Well, after all of this they  
4 came out and said you've got to get this out and you're in  
5 trouble. I called another meeting with the County and at  
6 that meeting nobody has any knowledge of ever writing a  
7 letter here, but then again, they say nobody complained.

8                   BOARD MEMBER ROBERTI: Well, they say  
9 nobody complained, but that's not the point.

10                  MR. BALL: I understand that. I understand  
11 that. We honestly thought that we -- still to this date I  
12 feel I have the answer for these tires. We have a lot  
13 of --

14                  BOARD MEMBER ROBERTI: I'm just thinking  
15 out loud now, Mr. Ball. I know it's difficult for the  
16 average citizen to win his way through the governmental  
17 processes.

18                  MR. BALL: Thank you.

19                  BOARD MEMBER ROBERTI: That I understand.

20                  MR. BALL: Thank you.

21                  BOARD MEMBER ROBERTI: That's why we were  
22 easy on you the last time, but I -- but you certainly knew  
23 that you should have gotten a permit from Amador County,  
24 especially when you're having problems with tires at the  
25 very time that you were collecting them.

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1                   MR. BALL: I told them that we had just  
2 gotten wrote up for that and do we abandon this or can we  
3 still go for it. Prior to me doing any tire chips on the  
4 wall I called Terry Smith and I asked him about it, and he  
5 says that he told me to keep it under 500 tires. Well,  
6 the way that we stack 500 tires, it wouldn't be no more  
7 than four feet long or three feet high. And it was my  
8 understanding that I had the okay from him, and if someone  
9 complained we would take them out and come here and  
10 answer. That was my --

11                   BOARD MEMBER ROBERTI: Mr. Chairman, I have  
12 no further questions. Maybe later I will.

13                   CHAIRMAN EATON: Thank you, Mr. Ball.

14                   BOARD MEMBER PENNINGTON: Mr. Chairman, let  
15 me ask a question.

16                   CHAIRMAN EATON: Mr. Pennington.

17                   BOARD MEMBER PENNINGTON: You said the 500  
18 tires would be four feet by three feet?

19                   MR. BALL: Yes, sir.

20                   BOARD MEMBER PENNINGTON: Certainly you  
21 knew that there was more according to these pictures.

22                   MR. BALL: There's a lot more than 500  
23 tires. There's 343 tons -- is that what we came up with?  
24 And that's not counting sidewalls. That is just the tread  
25 part. The sidewalls we went to various dairies. Now we

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1 have a deal with --

2 BOARD MEMBER PENNINGTON: So you knew there  
3 was more than 500 tires there?

4 MR. BALL: Well, yeah. And I explained  
5 that when I was talking to him and I said 500 tires won't  
6 work. We went back and forth and back and forth, and I  
7 honestly believed that he said okay. And I went and told  
8 my mother at this time. I said hey, I think they're going  
9 to let me do it. She says are you sure? And I go well,  
10 I'm positive. I talked back and forth with him for  
11 probably 15 minutes on that issue and it was my  
12 understanding that it was okay.

13 We certainly didn't mean to get back in  
14 here and cause more problems and to cause the hardships  
15 that it did. It took me a long time to clean it up  
16 because I have an older truck. I blew one motor, then we  
17 got it going, then I blew a transmission. Put another one  
18 in. It turned out to be a dud. We went back and got

19 another one, and now we need a third transmission. We had  
20 nothing but -- it wasn't the money problems. We're not  
21 rich. We generated \$103,000 on the waste tires last year  
22 and we were able to pay our debts as we went. We don't  
23 have a big nest egg or anything like that, but the problem  
24 of taking so long was because of mechanical problems.

25 CHAIRMAN EATON: Mr. Ball, let us go back

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1 to Ms. Williams and in a few minutes you'll be able to  
2 present your case-in-chief.

3 Ms. Williams and Mr. Begley.

4 MS. WILLIAMS: I have just a few  
5 formalities.

6 CHAIRMAN EATON: And I think Mr. Begley is  
7 going to have a presentation.

8 MR. BEGLEY: I just had a couple of  
9 comments. The regulations do not require a permit if you  
10 have 500 tires stored on your site. I believe the intent  
11 of that was if you're a small tire dealer and you have  
12 less than 500 waste tires, you don't need a permit, a  
13 storage permit. It does not authorize you to haul tires  
14 to that site. You can't haul 499 tires to a thousand  
15 sites all over the state. If the tires are already there,  
16 you don't need a permit. There's nothing in the hauler  
17 regulations that authorize hauling to a site that is not  
18 legally permitted to receive them.

19 BOARD MEMBER ROBERTI: However, if he had a  
20 permit from Amador County to build this retaining wall --

21 MR. BEGLEY: He did not have a permit.

22 BOARD MEMBER ROBERTI: I'm talking for  
23 purposes of information.

24 MR. BEGLEY: Right. I have two cases, one  
25 in Kern County where they issued a building permit for a

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1 gentleman to build a house out of tires. In that case the  
2 tires were part of the feedstock or materials to build the  
3 house and so we weren't involved in that. It so happens  
4 that he didn't build the house and now it's come back on  
5 us because all the tires that were stored there are still  
6 there.

7                   Last week I ran into a person who says he  
8 has a permit from the County of San Bernardino to build a  
9 house out of tires. That hasn't been verified yet, but  
10 this is a common problem and it always gets back to the  
11 registered hauler hauling tires to a site that is not  
12 permitted and not legally able to accept those tires.  
13 That is the crux of this matter today.

14                   CHAIRMAN EATON: Ms. Williams.

15                   MS. WILLIAMS: Mr. Begley, are you aware of  
16 whether there is any documentation or did you have any  
17 conversations with Amador County indicating that they  
18 approved this project?

19                   MR. BEGLEY: I met Margaret Blood up there  
20 and I also talked to Public Works and they have not seen  
21 any engineered drawing that they would approve. And so  
22 there was no -- no one issued any authorization to take  
23 those tires there.

24                   MS. WILLIAMS: So as a result of these  
25 impressions, did you issue a letter of denial for

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1 Mr. Ball's year-to-date 2000 application?

2 MR. BEGLEY: Yes. I believe we sent ten  
3 letters out. Mr. Fitzgerald mentioned that in his  
4 introductory statement.

5 MS. WILLIAMS: If I can have a moment to  
6 review my notes.

7 BOARD MEMBER JONES: Mr. Chairman, while  
8 she's reviewing her notes, may I ask Mr. Begley a  
9 question?

10 CHAIRMAN EATON: Please. Mr. Jones.

11 BOARD MEMBER JONES: I -- you said when you  
12 talked to Amador County -- I don't want to put words in.  
13 I forgot how you said it. Did Amador County -- were they  
14 aware of this wall, this retaining wall?

15 MR. BEGLEY: Well, we had received a  
16 complaint from Margaret Blood, the LEA, shortly after a  
17 hearing in February that word was in town he was hauling  
18 tires again and putting them up on the residence so we  
19 made an inspection out there. When I talked to her, she  
20 said she had discussed the project with him, but the LEA  
21 obviously is not in a position to authorize the project.  
22 And then I talked to a person at the Public Works office  
23 and they said they hadn't received any information or  
24 plans for the project.

25 BOARD MEMBER JONES: Did they -- had --

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1    okay.   That second person, did they know of the project?

2    Forget that they got the plans.   Did they --

3                   MR. BEGLEY:   Only Mr. Ball had talked to

4    them and mentioned that there was a proposed project.

5    They were aware, yeah.

6                   BOARD MEMBER JONES:   They were aware.

7    Okay.   Because I know there's a difference in being aware

8    and having the letter, and I just want to make sure.   They

9    were aware.   Do they normally issue building permits for

10   retaining walls in Amador County?

11                  MR. BEGLEY:   This kind of a project because

12   right above the slope area it's kind of a hill and at the

13   top is a concrete water creek and it supplies water down

14   below.   And I believe in this case you'd have to get

15   several approvals in order to disturb that area.   I don't

16   know if they normally issue permits for retaining walls or

17   not.

18                  BOARD MEMBER JONES:   I'm just wondering

19   because I'm nervous about this fine line between a civil

20   engineering project and disposal.

21                  CHAIRMAN EATON:   Ms. Williams.

22                  MS. WILLIAMS:   I just have one final

23   question for Mr. Cambridge.

24                  Mr. Cambridge, you heard that Mr. Ball

25   stated that he was informed that he would be allowed to

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1 maintain 500 waste tires at his site. Do you remember  
2 when you might have informed him and under what context  
3 you informed him of that?

4 MR. CAMBRIDGE: Mr. Ball is correct. There  
5 has been a long debated question of whether or not they  
6 can transport tires to that location or whatever. The  
7 reality is our definition of 500 tires or more is  
8 considered a waste tire facility. Mr. Ball was asking if  
9 he could haul tires overnight by his truck, process the  
10 tires, put them back on the truck and then remove them the  
11 following day. I said as long as you do not go over 500  
12 tires. I did state that.

13 MS. WILLIAMS: Do you remember when that  
14 was?

15 MR. CAMBRIDGE: That was at the  
16 beginning of -- or not the beginning, but towards the end  
17 of the first problem we had with this site, probably 1997,  
18 1998, whatever it was.

19 MS. WILLIAMS: That was the West Clinton  
20 Road site that resulted in Cleanup and Abatement Order and  
21 administrative penalties in 1996 and the decision in 1997?

22 MR. CAMBRIDGE: This is correct.

23 MS. WILLIAMS: Okay. Nothing further at  
24 this time, Mr. Chairman.

25 CHAIRMAN EATON: Any questions of any of

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1 the witnesses before we go to Mr. Ball? I have a couple  
2 and perhaps, Counsel, you can also participate.

3 My understanding is that if we frame the  
4 issue, since Mr. Ball has been here the last time from the  
5 resolution that was adopted, he has -- where he remediated  
6 the two illegal waste tire facilities, that was done prior  
7 to our vote on the resolution, if I'm not mistaken, if  
8 history serves me correctly.

9 MR. CAMBRIDGE: That's correct.

10 CHAIRMAN EATON: So what's before us is a  
11 whole new and different pile.

12 MR. CAMBRIDGE: Correct.

13 CHAIRMAN EATON: Okay. Has he completed  
14 the payment by January 1st, 2000? Are we aware of that?  
15 That was also a condition as I'm reading through the  
16 resolution here.

17 MS. WILLIAMS: If I may be sworn to  
18 testify, I can. Yes, I am aware that --

19 CHAIRMAN EATON: They do have disciplinary  
20 proceedings, so I would assume you'll be, you know --

21 MS. WILLIAMS: I am aware and have seen a  
22 copy of the notice from accounting that a check was  
23 received that satisfied the amount that the Board  
24 requested as part of the resolution for the 1999 denial  
25 hearing.

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1                   CHAIRMAN EATON: Okay. So we are not at  
2 least -- for purposes of trying to make a determination,  
3 any of those conditions of that resolution are not -- have  
4 all been met.

5                   MS. WILLIAMS: They were late, but he did  
6 finally comply.

7                   CHAIRMAN EATON: Now, moving to the pile,  
8 because it's my understanding under the statute what we're  
9 here for is that the reason for the non-renewal is that we  
10 have it within our authority if there's a recurring  
11 pattern or there's a threat to public health and safety.

12                   When the LEA contacted -- whom did the LEA  
13 contact about the complaint?

14                   MR. BEGLEY: I received a call personally.

15                   CHAIRMAN EATON: And did she in her  
16 estimation believe that there was a threat to public  
17 health and safety?

18                   MR. BEGLEY: Yes. She was very concerned  
19 because of the previous piles that Mr. Ball had been  
20 involved in and because of the fire threat. It's up in  
21 the wooded area and it's right in back of the residence.

22                   CHAIRMAN EATON: So the violations that  
23 were -- we have issued some violations as it relates to  
24 this new pile subsequent to the last time Mr. Ball was  
25 here?

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1 MR. CAMBRIDGE: Correct.

2 CHAIRMAN EATON: Okay. So those would be  
3 additional kinds of violations from the original  
4 violation. I'm trying to establish, you know, some --

5 MR. CAMBRIDGE: These would be additional  
6 violations of the same sort, yeah.

7 CHAIRMAN EATON: And that's where you're  
8 trying to say the statute does then permit under those  
9 circumstances of the non-renewal, either because there's  
10 been a recurring pattern of --

11 MS. WILLIAMS: We are --

12 CHAIRMAN EATON: -- violations or multiple  
13 violations?

14 MS. WILLIAMS: We are alleging that yes,  
15 the violations since the February Board hearing are  
16 sufficient under 42951(b) for a denial of this  
17 registration for the year 2000.

18 CHAIRMAN EATON: Okay.

19 MS. WILLIAMS: I only bring up the history  
20 to indicate that the Board may consider past violations or  
21 the respondent's past history with the Board in  
22 contemplating their action as a result.

23 CHAIRMAN EATON: And I understand that, and  
24 I think in other words that goes to the point that you  
25 made about a continuing pattern, but I just wanted to see

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1 if the pile that was spoken about that formed the basis,  
2 whether it be for a civil engineering or another work, was  
3 a whole new separate pile from the last time we were here.

4 Thank you. That clarifies some of the  
5 issues.

6 BOARD MEMBER JONES: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Jones.

8 BOARD MEMBER JONES: I have one question of  
9 staff, and I know it's your case to put on, but it's a  
10 piece of information that I'd like to see since it's all  
11 under the same division.

12 We came up with a policy of what was  
13 required to -- for civil engineering project. We had a  
14 criteria and we had a policy. Do you guys have a copy of  
15 that?

16 MR. CAMBRIDGE: I do not, no.

17 BOARD MEMBER JONES: Okay. It would be  
18 nice to see.

19 CHAIRMAN EATON: If there's nothing  
20 further, Mr. Ball, you may proceed with your presentation.

21 MR. BALL: I don't know really what to  
22 say. We started gathering tires in the middle '80s. We  
23 used the West Clinton facility. The County said that we  
24 had better stop doing that, so we applied for an  
25 application for a minor facility at the existing site of

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1 Fine's wrecking yard where I at no time exceeded my 5,000  
2 tires. There were thousands and thousands of tires on the  
3 place. I paid for every single cent. I did every bit of  
4 work without not one bit of help from those people. I  
5 even caught them bringing in illegal tires after it was  
6 ordered to be cleaned up, and at that time my fine went  
7 from \$1,000 to \$9,000 and the Board was good enough to  
8 reduce that fine down to me.

9                   We've tried. We're not the bad people.  
10 We've really tried hard. On this wall, Margaret Blood,  
11 she flat denied that she ever called in a complaint, but  
12 that's neither here nor there. On this wall, everybody  
13 that's looked at it has said that we're onto something.  
14 We've stacked the tires up against the canal, and the  
15 purpose after that was to rick-rack rock up along the  
16 front. You wouldn't have even seen a tire, and at the  
17 top, about four feet of fill dirt. What we would have  
18 lost on the bottom, we would have gained on the top.

19                   The water canal has boils, roots and stuff  
20 and it blows out all the time. The water agency does not  
21 do anything about it until it blows all the way, then they  
22 have a big sheet of rubber that they drop into the canal  
23 and it takes the water on past the blow-out point.

24                   They, like the County, are interested in  
25 doing the wall, but they're not going to write no letter

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1 until we resolve it here. This would be the first place  
2 because like Cody said, it doesn't matter what they say.  
3 If it gets denied here, it isn't gonna never go nowhere.  
4 We honestly felt that what we were doing  
5 was right. We never intended to get into any trouble or  
6 do anything wrong. We've always had fire extinguishers.  
7 There is a gate on the front when you first come in. We  
8 don't lock it. You might have a picture of my little  
9 puppy dog. He tends to keep the riffraff out pretty good.  
10 He's timber wolf, husky and shepard and has all his teeth,  
11 and there's always someone on the site.  
12 We have shovels. We do have a pike's pole.  
13 We have gravity flow water, plus we have the pump water  
14 from the house. We have a 2,500-gallon water tank in case  
15 of a fire emergency. The reason that I did not clear the  
16 brush at the top of my pile is because I didn't want it to  
17 die off and have more roots rotting out and another  
18 problem until we had it built up, and then all tie it in  
19 at once then clear the brush. The way that the canal is  
20 set up, even if it did catch on fire it would burn to the  
21 water and it really wouldn't go anywhere. The property  
22 above it is land-locked and you can't build nothing on it.  
23 The water canal which feeds Jackson is 14 miles long,  
24 land-locks that piece of property. You can never build  
25 nothing on it. It has manzanita and brush and that is

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1 right above our house.

2 We have been fighting that water canal.

3 When we first got in the house, I believe it was in '85,  
4 we have put automobiles up against it. We've put logs up  
5 against it. I had 2,000 bails of straw up against it one  
6 year. That was a real mess to get rid of. We have tried  
7 everything, and since we put that tire up last year, we  
8 did not have one problem, not one blow-out. We didn't  
9 have to have the water agency come out. And right now  
10 everybody is just kind of sitting to see if this will fly  
11 or not.

12 We do have a tire store in Plymouth. We've  
13 had that for a year and a half. We collect our tires. We  
14 put the good ones over there and then we wholesale out.  
15 We're not open to the public. There's just no business  
16 over there it's so slow, and if we could get our hauler  
17 registration back, we would love the chance to get out and  
18 really do some work and we would use the tire shop as a  
19 facility to process the tires. We're such a small  
20 business up there in the area. We don't have the big  
21 turnover like the people down here in the city.

22 I have -- since my big truck broke, we've  
23 got it repaired and we've also bought a U-Haul-type truck,  
24 which is a really good little truck. So now we can,  
25 between my several trucks and my trailers, we can move

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1 about a thousand tires at a time.

2 Last year we processed 30 -- I believe it  
3 was 34,000 tires, and on top of that there was almost  
4 2,000 truck tires and approximately 200 OTR tires weighing  
5 anywhere from a thousand to 2,000 pounds a piece. And  
6 we've gotten rid of everything and kept our manifests as  
7 best we've known how. I noticed there was an article that  
8 we weren't keeping them right, and I -- if we're doing  
9 something wrong, we definitely want to know what we're  
10 doing.

11 We have multiple pick-ups, sometimes we  
12 have five or six loads, five or six customers on one  
13 manifest, and we keep a little invoice which has the  
14 manifest number so we are able to trace back any manifest  
15 to the invoice to tell you where it went. We don't know  
16 what --

17 BOARD MEMBER PENNINGTON: Mr. Chairman.

18 MR. BALL: We feel our project is good.

19 We'd like to get permission to look into it more.

20 CHAIRMAN EATON: Mr. Pennington.

21 BOARD MEMBER PENNINGTON: Mr. Ball, you've  
22 had some difficulty with this agency in the past; correct?

23 MR. BALL: Yeah, but I think you guys are  
24 pretty sharp cookies.

25 BOARD MEMBER JONES: Well, thank you.

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1 MR. BALL: Okay.

2 BOARD MEMBER JONES: And you, Mr. Ball, are  
3 as sharp as they come.

4 MR. BALL: I am trying.

5 BOARD MEMBER PENNINGTON: Since you've had  
6 difficulties with us before, when you started building  
7 this thing, you knew that you had exceeded 500 tires.

8 MR. BALL: I thought --

9 BOARD MEMBER PENNINGTON: Why didn't you  
10 come to us and ask us --

11 MR. BALL: I honestly thought that I'm just  
12 trying to save an argument down the road with Terry Smith.  
13 I honestly thought I had permission. He told me when I  
14 called him up here a month or two that he said under 500.  
15 I honestly thought I had permission to go for it. I'm  
16 just trying not to throw mud in anybody's face because I  
17 want to be part of this deal.

18 BOARD MEMBER PENNINGTON: It just seems to  
19 me that you've dealt with us before and we ask you do you  
20 have a piece of paper and we ask you these things.  
21 Certainly one of our staff, it would seem that you would  
22 at least know to say can you put that in writing or can  
23 you give me something that --

24 MR. BALL: I'm learning that, sir. I'm  
25 definitely learning that. It's like dealing with the

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1 County of Amador. They flat denied in a board room just  
2 like -- in a meeting they flat denied that they ever made  
3 any complaints at all. And as far as building the wall,  
4 they said well, you see what the Board says. If they give  
5 you permission to look into it, we'll back you up. And --

6 BOARD MEMBER PENNINGTON: It seems like --

7 MR. BALL: -- the same with the water  
8 agency. As far as the vector code, I don't believe that  
9 exists up in that area. I've talked to all the tire  
10 stores that I deal with and they don't know what you're  
11 talking about with the vector number.

12 BOARD MEMBER PENNINGTON: State law applies  
13 up there, too.

14 MR. BALL: I'm sure it does.

15 BOARD MEMBER PENNINGTON: They still are a  
16 part of this thing.

17 MR. BALL: Yes. Thank you. I think I  
18 should have been a lawyer.

19 BOARD MEMBER ROBERTI: Perhaps you should  
20 have.

21 MR. BALL: I think so.

22 CHAIRMAN EATON: It may have hurt the case.  
23 Any other questions of Mr. Ball?

24 BOARD MEMBER JONES: Mr. Eaton.

25 CHAIRMAN EATON: Mr. Jones. I'm sorry.

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1                   BOARD MEMBER JONES: The width of this wall  
2 right now from the existing slope, and I guess it doesn't  
3 exist anymore, but whatever this width was -- how wide?

4                   MR. BALL: I would have like to have went  
5 out about 20 feet, sir.

6                   BOARD MEMBER JONES: How wide did it go  
7 out?

8                   MR. BALL: 15, maybe 20 feet. 15 to 20  
9 feet somewhere at the widest point. Up closer to the  
10 house it got wider. Towards the back it got narrower.  
11 The idea was to line it with rock and leave an access road  
12 for the water agency to get in at the top because there is  
13 no place for the water agency to get to that particular  
14 quadrant of the ditch. You can see the one picture there  
15 where the trees are that the canal is only eight feet  
16 wide. You can't drive a vehicle over it, and that was  
17 part of my discussion with them that hey, I'll get it  
18 sheared up, I'll get it rock faced, and you guys can have  
19 your road going along the bottom of it. And they really  
20 liked that idea for giving them access, and it could also  
21 be used for fire or whatever, but if there was a fire in  
22 that area I think they would just probably let it burn out  
23 because there's really nothing above the house. You  
24 understand what I'm saying?

25                   BOARD MEMBER JONES: Right.

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1                   MR. BALL: Try to put out manzanita.

2                   BOARD MEMBER JONES: I know.

3                   MR. BALL: You know, it's --

4                   BOARD MEMBER JONES: The pictures I'm

5 seeing, did you have a standard strip length that you cut

6 these to?

7                   MR. BALL: Uh-huh.

8                   BOARD MEMBER JONES: For a reason?

9                   MR. BALL: Uh-huh.

10                  BOARD MEMBER JONES: What was the reason?

11                  MR. BALL: For stacking easy. The longer

12 ones don't stack. The shorter ones, they tend to fall

13 over. We ran into a little bit of trouble. When we first

14 started, the wall was falling over on us. We crisscrossed

15 the bottom stack and actually made it hold, but the truth

16 is you need to have the leaching in first and then you

17 need to start your wall, your rock, and then it all needs

18 to go up at the same time. We went up this way, then we

19 were going to put the leach line in it. We went off

20 half-cocked after talking to the engineers and a few other

21 contractors that really are interested in this. It's

22 pretty much -- there is a simple layout, like I said, that

23 could be used in the delta levies very easy.

24                  BOARD MEMBER JONES: How was it going to be

25 secured?

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1                   MR. BALL: Its own weight is holding it in.  
2 In a situation like that, there is no hard rock in that  
3 levy. It's just dirt.

4                   BOARD MEMBER JONES: Just limestone.

5                   MR. BALL: You can't put nothing into it.  
6 Otherwise you're going to create a weakness right there.  
7 That's why we have such a bad problem with the roots.

8                   BOARD MEMBER JONES: So when the tires were  
9 going to come out, it was going to be -- the tires were  
10 going to be covered by --

11                  MR. BALL: Dirt on the top and rock on the  
12 facing that you would see. You would never actually see a  
13 tire, and the idea behind that would be it would blow out,  
14 the water would trickle through the tires, drop down. We  
15 took it into an area where it needs to go. And the  
16 neighbor below me is in twice as bad a shape as I am and  
17 he's the guy that originally called every single day the  
18 first time I had a cleanup complaining about it. Now  
19 we're buddies and he wants that wall down on his property.  
20 But everybody is just waiting to see what happens here as  
21 far as that goes.

22                  BOARD MEMBER JONES: Okay. I have a  
23 question of staff.

24                  CHAIRMAN EATON: But you're not here today,  
25 you understand that, to seek approval of that wall.

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1                   MR. BALL: No. I'm here to get my license  
2 back and then to see if we can look into doing this wall.

3                   CHAIRMAN EATON: That's a separate  
4 proceeding. That's not going to be part of why you're  
5 here.

6                   MR. BALL: I understand that.

7                   BOARD MEMBER JONES: Based on the  
8 Chairman's question, he's in violation for hauling to an  
9 unlicensed waste tire disposal site.

10                  MR. CAMBRIDGE: Correct.

11                  BOARD MEMBER JONES: If this facility --  
12 okay. The way -- this is the way that you guys came and  
13 saw it.

14                  MR. CAMBRIDGE: That's correct.

15                  BOARD MEMBER JONES: The tires had been  
16 cleaned, there weren't any stockpiles of tires or  
17 stockpiles of these.

18                  MR. CAMBRIDGE: There were a few scattered  
19 whole tires around.

20                  BOARD MEMBER JONES: Less than 500.

21                  MR. CAMBRIDGE: I believe so.

22                  BOARD MEMBER JONES: And so really -- I  
23 need to really -- I'm having a hard time with this. Does  
24 everybody in the state that's going to do a civil  
25 engineering project with tires have to get approval from

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1 the State, from the Waste Board, or what's the criteria?  
2 You know -- because this can be -- I want to make sure if  
3 this is an illegal landfill, if this is an illegal dump or  
4 a waste pile, then that's -- obviously, that's the way it  
5 needs to be treated.

6 If it is a civil engineering project,  
7 what's the criteria that makes this a civil engineering  
8 project and who has to approve it? Because then it's not  
9 an illegal dump or an illegal waste tire site, it's a  
10 positive reuse that actually goes toward reuse of scrap  
11 tires.

12 MR. BALL: And that's our -- been our goal  
13 the whole time, to find a secret for these things.

14 MR. BEGLEY: What we've been using when  
15 someone asks us about a project with tires, we tell them  
16 to contact the local agency with their proposal. If the  
17 local agency approves it, I mentioned Kern County had  
18 issued a building permit for a man to build a house and so  
19 we were basically out of it. So it happens in that case  
20 the house wasn't built and now the tires are not only on  
21 his property but two of his neighbors' and we're going  
22 for -- to take enforcement action and we'll probably end  
23 up cleaning them up.

24 In this case, if Amador County had issued a  
25 permit to him to build this retaining wall or flood

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1 control or whatever it might be, then we wouldn't be  
2 involved. There's really no provision in the statute or  
3 regs for engineering projects.

4 BOARD MEMBER JONES: We have a policy.

5 MR. BEGLEY: And that's what we've been  
6 doing is if the local agency approves it, we don't need to  
7 approve it. We don't need a permit if the local agency  
8 has said yes, this is a legitimate project.

9 BOARD MEMBER JONES: So if the local agency  
10 said yes, this is a legitimate project, would there --  
11 would Mr. Ball be in front of us today?

12 MR. BEGLEY: No.

13 BOARD MEMBER JONES: Okay.

14 MR. CAMBRIDGE: I might further add we had  
15 one site in Fresno that they were building a tire garden,  
16 and prior to building this garden they did obtain a minor  
17 waste facility permit. They still maintain that permit  
18 until the garden is finished and then we'll bring it in  
19 front of the Board.

20 BOARD MEMBER JONES: I don't have a problem  
21 with what you guys did. You need to understand that. I  
22 just want to make sure that we're consistent with the  
23 policies that we're putting out of this place.

24 MS. WILLIAMS: Mr. Chairman.

25 CHAIRMAN EATON: Hold on. Mr. Ball, have

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1 you completed your --

2 MR. BALL: Yes.

3 CHAIRMAN EATON: Okay.

4 MS. WILLIAMS: I'm sorry. Is Mr. Ball --

5 CHAIRMAN EATON: He has completed his  
6 presentation.

7 MS. WILLIAMS: May I ask him a few  
8 questions?

9 MR. BALL: Surely you may.

10 MS. WILLIAMS: Mr. Ball, when did you first  
11 seek county approval for the existing or the most recent  
12 site of the West Clinton Road?

13 MR. BALL: When did I first ask for it?

14 MS. WILLIAMS: When did you first seek  
15 permission from the County or did you?

16 MR. BALL: I believe it would be about '85,  
17 '86.

18 MS. WILLIAMS: In 1985?

19 MR. BALL: Yes, ma'am.

20 MS. WILLIAMS: For this project?

21 MR. BALL: For a project similar. I was  
22 going to use whole tires.

23 MS. WILLIAMS: And did you discuss this  
24 with any -- this particular project with any Board staff?

25 MR. BALL: No. At that time I don't

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1 believe the Board was around; were they?

2 MS. WILLIAMS: At any time --

3 MR. BALL: You're talking about the project  
4 right now.

5 MS. WILLIAMS: Yes. The project we're  
6 discussing.

7 MR. BALL: I discussed it with Terry Smith.

8 MS. WILLIAMS: I have no further questions.  
9 I would like to call, however, Terry Smith.

10 CHAIRMAN EATON: Bring Mr. Smith up and  
11 swear him in as a witness, please.

12

13 TERRY SMITH,  
14 called as a witness by the California Integrated Waste  
15 Management Board, having been duly sworn, was examined and  
16 testified as follows:

17

18 EXAMINATION

19 BY MS. WILLIAMS:

20 Q. Mr. Smith, what is your occupation?

21 A. I work in the Permits Section of the Waste  
22 Tire Management Branch.

23 Q. And what are your duties?

24 A. I basically process permits and give people  
25 information on how they can come into compliance with

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1 Title 14 and federal regulations regarding tire storage.

2 Q. Specifically regarding tire storage, do you  
3 recall having any permission -- any discussions with  
4 Mr. Ball regarding permission to store waste tires on  
5 sites?

6 A. I had several discussions with Mr. Ball.

7 Q. Do you have any recollection of any  
8 regarding his questions of you regarding permitting of  
9 sites?

10 A. Yes. He first called me back in '98. We  
11 met at the tire workshop when we were doing emergency  
12 regulations and he was asking questions about permits and  
13 requirements for tire storage.

14 Q. Did you have a conversation with him in  
15 October of 1998?

16 A. Yes, I did.

17 Q. And what was the nature of that discussion?

18 A. Well, it was pretty shotgun. He asked  
19 about a lot of things and he has a lot of ideas and some  
20 of them may be good ideas, but one of them was repairing  
21 the levy, the water ditch, with tires. He even mentioned  
22 floating tires down the ditch and repairing that levy on  
23 downstream from his place. I told him that anything that  
24 he would have had in mind, if he was going to store up to  
25 500 tires he needed to get a permit, and if he was going

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1 to construct a wall or a levy or French drain, as he calls  
2 it, then he needed to get the project approved at the  
3 local level first and then come to us for approval.

4 Q. Okay.

5 MS. WILLIAMS: I have no further questions.

6 CHAIRMAN EATON: Any questions of  
7 Mr. Smith?

8 BOARD MEMBER PENNINGTON: Go ahead.

9 BOARD MEMBER JONES: The -- Terry, in the  
10 past throughout the state of California people have been  
11 trying to make walls and stuff. Is it normally out of  
12 whole tires or is it this type of formation or is it a  
13 mixture?

14 MR. SMITH: It's a mixture. I don't have  
15 any statistics on it but they do both.

16 BOARD MEMBER JONES: Because I know we've  
17 had to clean up some projects where they used it to  
18 shore-up these types of aqueducts, rivers, that type of  
19 stuff. Most of those it seems that we've done lately  
20 since I've been on this Board have been whole tires that  
21 were buried for that purpose.

22 MR. SMITH: Yeah.

23 BOARD MEMBER JONES: Okay.

24 BOARD MEMBER PENNINGTON: When you had  
25 these discussions with him about the tire wall, the French

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1 drain, whatever, did he ask you to put anything in  
2 writing? Did he ask you your permission to construct this  
3 thing? What was the nature of his questions?

4 MR. SMITH: He was just telling me all of  
5 the projects he had in mind and we were just discussing  
6 it. He didn't ask for anything in writing.

7 BOARD MEMBER PENNINGTON: Did he ask you,  
8 though, whether he could do this or not?

9 MR. SMITH: Yes. He told me what he had in  
10 mind and I told him what he needed to do. As a matter of  
11 fact, I did send him an application package.

12 MS. WILLIAMS: For a minor waste tire  
13 facility permit?

14 MR. SMITH: Yes, for a minor.

15 BOARD MEMBER PENNINGTON: Okay. Thank you.  
16 For this project or was it project-specific?

17 MR. SMITH: He asked me for -- about a lot  
18 of different projects and I sent him one application. I  
19 don't know what he was going to use it for. There's a  
20 place called Poor Mike's Tires and then he's talking about  
21 purchasing an automobile dismantler.

22 MR. BALL: That's what it was for. Yes.  
23 I'm sorry.

24 BOARD MEMBER PENNINGTON: Okay.

25 CHAIRMAN EATON: Do you want to have any

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1 closing statements?

2 MS. WILLIAMS: I would, however, request  
3 that since it is the State's burden, we have the final  
4 opportunity for closing as a practice.

5 CHAIRMAN EATON: There's rebuttal that you  
6 can make if you wish at this time.

7 MS. WILLIAMS: I actually --

8 CHAIRMAN EATON: And Mr. Ball has the  
9 opportunity for rebuttal and then you, Mr. Ball, would  
10 close and then you would close thereafter and then we  
11 would have any final questions from the Board and have our  
12 deliberations.

13 MS. WILLIAMS: If I may have a moment to  
14 confer with the staff member who just entered the  
15 chambers.

16 CHAIRMAN EATON: Fine. While we're doing  
17 that we will take a short ten-minute break because I  
18 notice that the court reporter is ready for a break as  
19 well.

20 MS. WILLIAMS: Thank you, Mr. Chairman.

21 CHAIRMAN EATON: Thank you. We'll return  
22 in ten minutes.

23 (Brief recess taken)

24 CHAIRMAN EATON: All right. Ladies and  
25 gentlemen, we're back in session.

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1                   Members, any ex partes to report?

2   Mr. Pennington.

3                   BOARD MEMBER PENNINGTON:   No, Mr. Chairman.

4   Thank you.

5                   CHAIRMAN EATON:   Mr. Jones.

6                   BOARD MEMBER JONES:   No.

7                   CHAIRMAN EATON:   Ms. Moulton-Patterson.

8                   BOARD MEMBER MOULTON-PATTERSON:   Just said

9   hello to Terry Lavelle.

10                  CHAIRMAN EATON:   Senator Roberti.

11                  BOARD MEMBER ROBERTI:   No ex partes.

12                  CHAIRMAN EATON:   And none for me.   I'm

13   up-to-date.

14                  Ms. Williams.

15                  MS. WILLIAMS:   Thank you, Mr. Chairman.   As

16   part of our rebuttal we would like to call and swear in

17   Martha Gildart and Byron Fitzgerald.

18                  CHAIRMAN EATON:   Ms. Emery, would you mind

19   swearing in these two individuals.

20

21                  MARTHA GILDART and BYRON FITZGERALD,

22   called as witnesses by the California Integrated Waste

23   Management Board, having been duly sworn, were examined

24   and testified as follows:

25

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1 EXAMINATION

2 BY MS. WILLIAMS:

3 Q. Ms. Gildart, by whom are you currently  
4 employed?

5 A. State of California Integrated Waste  
6 Management Board.

7 Q. What are your current duties?

8 A. I manage the Waste Tire Management Branch  
9 which governs both the permitting and enforcement and  
10 remediation functions and the grant and market development  
11 functions.

12 Q. And just prior to your current role, what  
13 were your responsibilities?

14 A. I was the manager of the Technology  
15 Evaluation Branch and Markets Development Division which  
16 looked at uses for waste tires.

17 Q. In the combination of those roles, are you  
18 aware of past practices regarding the approval of waste  
19 tire facilities as engineered projects?

20 A. I can recall two specific projects. One  
21 was with Humboldt County. It entailed the use of bailed  
22 tires in a gabion structure and dirt backfill for a road  
23 embankment, and that was an engineered, designed and  
24 approved and stamped project.

25 Q. If I may ask, approved by a civil engineer?

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1           A.       Yes.

2           Q.       And did you review that application  
3 yourself?

4           A.       My engineering staff reviewed the  
5 application. I have seen and discussed the project, but I  
6 did not go through that in detail.

7           Q.       Okay. I'm sorry. And the other?

8           A.       The other project was one that came to the  
9 Board not through the grant program but was seeking  
10 permission for the use of the tires, and that was the use,  
11 once again, of bailed whole tires as a backstop for a  
12 firing range that the City of Tracy Police Department had  
13 constructed, and the decision was that if the City was  
14 willing to say it met their standards and was willing to  
15 back up their approval with the commitment to clean up  
16 those tires and remove them if at any point it became an  
17 environmental threat to health or safety, then the Board  
18 would give that approval.

19                   They had also offered that same permission  
20 to half a dozen other cities who expressed interest in a  
21 similar use, but none of those cities wished to take up  
22 that approval. So we only had the one project go forward.

23           Q.       So is it fair to characterize your approval  
24 of those projects as being based on either a sign-off by a  
25 civil engineer or acceptance by the local agency for the

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1 ultimate liability or responsibility proposed by that  
2 project?

3 A. Correct.

4 Q. Are you aware if there is a written policy  
5 regarding the approval of engineered projects?

6 A. I'm not aware of a written policy.

7 Q. Okay.

8 MS. WILLIAMS: I have no further questions  
9 for Ms. Gildart at this time.

10 CHAIRMAN EATON: Any questions of  
11 Ms. Gildart?

12 BOARD MEMBER JONES: Mr. Chairman.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: The Humboldt County  
15 one was one that we funded; right?

16 MS. GILDART: Correct.

17 BOARD MEMBER JONES: So was the condition  
18 of the -- engineering was one of the conditions of the  
19 grant?

20 MS. GILDART: Correct. To receive a grant,  
21 you have -- the applicant must show he has all applicable  
22 permissions, code standards, approvals, in advance of our  
23 funding.

24 BOARD MEMBER JONES: The -- and I really  
25 did think we had a written policy. Weren't we working on

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1 something in market development in civil engineering where  
2 we had conditions of what a civil engineering project  
3 would be?

4 MS. GILDART: My recollection is those were  
5 specific projects that came before us, that it wasn't a  
6 policy set forth that the Board voted on to set a policy.  
7 I think it was more precedent setting through specific  
8 projects.

9 BOARD MEMBER JONES: Okay.

10 CHAIRMAN EATON: Any other questions?  
11 Thank you. Next witness.

12 MS. WILLIAMS: If I may briefly ask  
13 Mr. Fitzgerald.

14

15 EXAMINATION

16 BY MS. WILLIAMS:

17 Q. How are you currently employed and what is  
18 your title?

19 A. I'm the acting Deputy Director of the  
20 Special Waste Division which is responsible for oversight  
21 of the tire program, oil program, and household hazardous  
22 waste.

23 Q. Are you aware of any existing procedure or  
24 policy within the Special Waste program regarding proposed  
25 engineering projects using waste tires as a feedstock or

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1 resource?

2           A.       I would have to echo what Ms. Gildart just  
3 said. I'm aware of the past practice we've had that the  
4 projects have been approved by the Board, have been  
5 engineered as such, or if they have to be approved by the  
6 local government agency responsible for them. So for all  
7 of the tire projects that require civil engineering  
8 approach to a problem, they've all had to meet those  
9 standards by past practice.

10           Q.       Have you had an opportunity to review the  
11 Ball project?

12           A.       Not in any detail. I'm generally familiar  
13 with it but not any specific details.

14                   MS. WILLIAMS: If I may ask then one final  
15 question for Mr. Begley.

16                   CHAIRMAN EATON: Mr. Begley.

17                   MS. WILLIAMS: Regarding Mr. Fitzgerald's  
18 testimony about your program's policy, in your estimation  
19 does the situation created by Mr. Ball that brings us to  
20 this hearing today, in combination, does it meet the  
21 criteria as described by Mr. Fitzgerald regarding an  
22 engineered project?

23                   MR. BEGLEY: No.

24                   MS. WILLIAMS: Thank you. No further  
25 questions.

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1                   CHAIRMAN EATON: Mr. Ball, you have ten  
2 minutes for rebuttal.

3                   BOARD MEMBER PENNINGTON: Mr. Chairman.

4                   CHAIRMAN EATON: I'm sorry.

5                   BOARD MEMBER PENNINGTON: Could I question  
6 the two witnesses?

7                   CHAIRMAN EATON: Surely.

8                   BOARD MEMBER PENNINGTON: If someone came  
9 to you, either of you, with an idea for a civil  
10 engineering project, what would you do? You would have  
11 some criteria that you would give them, some policy of  
12 this Board.

13                  MS. GILDART: When you say came to us, do  
14 you mean as a grant applicant or a permit applicant?

15                  BOARD MEMBER PENNINGTON: Probably either.  
16 Assuming that they don't know a lot about our department,  
17 our Board and our rules and regulations, when somebody  
18 came in the door and said to you I've got this idea, what  
19 do I have to do to do this, is there some written document  
20 that you would give them?

21                  MS. GILDART: When the term "civil  
22 engineering project" is used, that's going to imply that  
23 there is an engineering function, that the project  
24 provides some kind of support, stability, erosion control,  
25 load bearing, that there is such a function behind the

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1 project. If that is so, there are codes and standards,  
2 building codes, safety codes, and engineers, licensed  
3 engineers who will review and stamp those drawings with  
4 their approval if it meets those standards. If it is that  
5 kinds of project and they were a grant applicant or permit  
6 applicant, I would want to see that approval.

7 BOARD MEMBER PENNINGTON: Right.

8 MS. GILDART: There are other projects,  
9 though --

10 BOARD MEMBER PENNINGTON: I guess my point  
11 is if they don't know whether they're a grant applicant or  
12 a permit applicant, they just have an idea and they come  
13 to this Board with an idea, I want to do something --

14 MR. FITZGERALD: In that case I think we  
15 would refer them to the local government for the local  
16 building codes because it would be essential to get those  
17 approvals. Otherwise, they're bringing the tires on a  
18 site without any particular project identified and  
19 approved.

20 BOARD MEMBER PENNINGTON: And, therefore,  
21 would they then leave with the assumption that they didn't  
22 have to deal with this Board?

23 MR. FITZGERALD: Depending on how many  
24 tires they bring on the site. If they -- we went through  
25 this when we did the levy construction project where we

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1 brought tires on the site at the levy. In order to keep  
2 the tires below the level that was required in the permit,  
3 they had to stage the tires over a period of time. This  
4 might be a policy we're going to look at in the future,  
5 but that's what our policy has been in the past and that's  
6 where we are now.

7 BOARD MEMBER JONES: Mr. Chairman.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: The -- when you say  
10 refer them to the local governments to see if they get  
11 approval or not, it was pretty common practice for the  
12 last 30 years or 40 years to use tires as erosion control.  
13 You're cleaning up some of those messes now, and I'm sure  
14 people are going to ask you, other agencies are going to  
15 say don't take all the tires because if you take all the  
16 tires, you're going to create another disaster. I mean,  
17 that was a use, and I'm not -- what I'm trying to do, I  
18 think this -- where I'm having a problem with this is, and  
19 I'm going to address this to Mr. Begley, when you looked  
20 at the pictures and the question was asked by somebody on  
21 this Board, or maybe it was by Counsel, did this fill the  
22 requirement of a project and you said "no", what did you  
23 base that on? Why wouldn't this be an engineered project?

24 MR. BEGLEY: We didn't say it couldn't be  
25 an engineered project. What we suggested is that he get

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1 an engineer to engineer the project and clear it with the  
2 local agencies and then we could talk to him about whether  
3 or not he needed a permit and that sort of thing.

4 BOARD MEMBER JONES: I mean a minute or so  
5 ago one of Ms. Williams's last questions to you was when  
6 you saw this, did it fit the criteria. And I'm assuming  
7 that means criteria for an engineering project or the  
8 criteria for an illegal tire dump. I assume it meant  
9 engineered project.

10 MR. BEGLEY: It didn't -- since we couldn't  
11 permit it and we didn't have an engineered drawing or  
12 approvals, we assumed it's just an illegal tire pile. The  
13 potential is there for an engineered project, but we have  
14 nothing to look at other than the pile of tires and his  
15 suggestion to build a retaining wall out of those tires.

16 BOARD MEMBER JONES: Okay. Absent the  
17 permits and all that stuff, when you viewed it, would it  
18 in your view meet the criteria of something that could be  
19 considered an engineered project?

20 MR. BEGLEY: Oh, yeah. Sure.

21 BOARD MEMBER JONES: That's a different  
22 answer, though. Okay. Thanks.

23 CHAIRMAN EATON: Any other questions?

24 Mr. Ball.

25 MR. BALL: In short, we thought we were

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1 legal to bring in, keep under 500 tires. We believe in  
2 the wall that we're building. We believed that we had  
3 enough bases covered to where we could have gone with it,  
4 and we did not try to hide tires or illegally throw them  
5 over a bank or anything like that. We had them out in  
6 plain sight. We put a lot of work into it and we believed  
7 it was good, and we respectfully ask to get our license  
8 renewed and to look into doing that tire wall project at  
9 another time after covering all the bases, which I'm not  
10 all that clear on.

11                   It seems to me you have to get county  
12 permission. The County tells me I have to get state  
13 permission. We're still not very clear if we're going to  
14 be able to do anything with that. I was never given  
15 anything negative by all the carpenters, all the  
16 contractors that looked at it. We're pretty sure we're on  
17 to something here.

18                   CHAIRMAN EATON: Senator Roberti.

19                   BOARD MEMBER ROBERTI: Mr. Ball, I,  
20 speaking only for myself, do not like to have to vote to  
21 deny you a hauling permit. However, the issue is not  
22 whether you had anything negative said about what you  
23 wanted to do. The issue is whether you had something  
24 affirmative to give you a go-ahead to produce what appears  
25 to be a relatively important engineering project and you

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1 just -- you had to know that you would need some kind of  
2 permit. The fact that you went to Amador County and asked  
3 them orally indicates you knew there was something.

4 MR. BALL: I figured if we covered our  
5 bases it would probably work out, but obviously I'm not  
6 right.

7 BOARD MEMBER ROBERTI: Well, I guess I've  
8 got to work on the premise that you should have known  
9 there should have been something much more official than  
10 what you presume to be a go-ahead, whatever that may have  
11 been, over the telephone.

12 MR. BALL: In the mid-'80s when we started  
13 doing that there, we just stacked up old truck tires and  
14 nobody even give it a second look at it until when Keith  
15 and Cody came up and made us remove that one part. We had  
16 tires that were stacked up and then in the back part we  
17 had --

18 BOARD MEMBER ROBERTI: That's true but in  
19 the mid-'80s we didn't have all these rules --

20 MR. BALL: That's for sure.

21 BOARD MEMBER ROBERTI: We didn't have all  
22 these rules on removing waste tires. So times have  
23 changed and you know that better than anyone.

24 MR. BALL: Yeah. You know, being up in the  
25 foothills, being the littlest guy, we get kicked the

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1 hardest. This no doubt -- we get the blunt end. All the  
2 good jobs, TRC and these other companies come up, I don't  
3 even get a chance to bid on them, boom, they're gone.

4 I get all the little \$50, \$75 jobs, the  
5 jobs that no one doesn't want. I've done about 20 jobs  
6 for Amador, El Dorado and Calaveras County over the last  
7 year, and the only reason I got them is because no one  
8 else wanted them.

9 But as far as the wall going, we thought we  
10 were okay. We really did. We would have never, never  
11 done that if we would have known we would have ended up  
12 right back here. I was prepared and am prepared to answer  
13 any questions about the wall. We kept proper  
14 documentation going in, we kept it going out. We really  
15 didn't feel that we were doing anything wrong. We  
16 actually feel that we have the answer to this. We think  
17 this is a good deal.

18 BOARD MEMBER ROBERTI: Well, I'm going to  
19 vote to deny the license with this proviso, just to let  
20 you know where my mind is. The other Board Members may  
21 feel diametrically opposed on the other side. I  
22 personally would be willing to revisit it if Amador County  
23 gave you a permit and/or said they gave you a green  
24 light --

25 MR. BALL: They just basically --

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1                   BOARD MEMBER ROBERTI:  -- without any  
2 promises for how I feel, then I would be happy to look at  
3 it again, but --

4                   MR. BALL:  I definitely would --

5                   BOARD MEMBER ROBERTI:  Absent that, just  
6 allowing people on good intentions and tell the Board I've  
7 got a major engineering project, it's great, and we would  
8 have no waste tire law.  Everybody would have a major  
9 engineering project without a permit.

10                  MR. BALL:  Right.  I think our canal is  
11 probably one of a thousand others.  There's not that many  
12 situations like we have.

13                  BOARD MEMBER ROBERTI:  That could very well  
14 be true, but I want some official imprimatur on this and  
15 the County is the one that does --

16                  MR. BALL:  It's been drilled into my head  
17 that anything in the future done we will definitely have  
18 paperwork to cover everybody and make everybody happy.

19                  BOARD MEMBER JONES:  Mr. Chairman.

20                  CHAIRMAN EATON:  Mr. Jones.

21                  BOARD MEMBER JONES:  I, too, think that the  
22 waste tire permit has to be denied, but -- and I, too,  
23 think that tire piles being called engineering projects  
24 don't work.  I happen to think though that this is -- this  
25 fills the need and makes sense and what I would in the

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1 time that you don't have a waste tire permit, I would come  
2 to this Board and get a -- try to get a grant to engineer  
3 it and build it. I want to put him on some kind of  
4 suspension, but I would come in on an engineered project.

5 MR. BALL: That wall pays for itself as  
6 it's being built. It does not need grant money. It will  
7 pay for itself as it goes up. There's enough money  
8 generated from it where you don't have to stick out of  
9 your pocket.

10 BOARD MEMBER JONES: Right. We had the  
11 discussion the last time. We cut you pretty good slack.  
12 This time I think we need to take -- suspend that hauler  
13 permit for a while, and I don't know that I can support a  
14 year. I think I can support some months.

15 CHAIRMAN EATON: We're not there yet in  
16 deliberations. We're still in the --

17 MR. BALL: Well, I would definitely go  
18 bankrupt if I lost my hauler license any longer than I  
19 have. We've made arrangements with all of our tire  
20 stores. We process the tires there on-site and with the  
21 anticipation that we're going to be renewed. It would be  
22 devastating if we were not.

23 BOARD MEMBER PENNINGTON: Well, Mr. Ball,  
24 you did know, though, that you were not supposed to  
25 violate the 500 tire rule. You've admitted that.

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1                   MR. BALL: I was under the impression that  
2 once it was in a chip piece on the wall, that it was no  
3 longer considered a tire. And that is the impression I  
4 had from all throughout the deal. The chips on the wall  
5 are nowhere near a tire. They're basically a little chip  
6 of tire. It can be stacked in an un-uniform area and made  
7 uniform.

8                   BOARD MEMBER PENNINGTON: These aren't  
9 chips, these are --

10                  MR. BALL: No, sir. Those are  
11 approximately seven-and-a-half-inch pieces. We remove the  
12 sidewalls, and usually the sidewalls go to one of our  
13 dairy people and then it leaves the tread part. And we  
14 break those down in six or so pieces, right around a  
15 seven-and-a-half-inch piece. I referred to that as a  
16 chip. It is a piece.

17                  BOARD MEMBER PENNINGTON: Well, I think  
18 you've had enough experience with this Board that you  
19 should have known.

20                  MR. BALL: That's why I called Terry Smith.

21                  BOARD MEMBER PENNINGTON: I don't think  
22 that -- I agree it's difficult for you to maneuver  
23 government and through government, and that's why there  
24 are people that make a lot of money dealing with  
25 government for other people.

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1                   MR. BALL: I certainly do.

2                   BOARD MEMBER PENNINGTON: But it's like you  
3 may not know the whole Vehicle Code, but you certainly  
4 have got an idea that it's out there and that it needs to  
5 be adhered to.

6                   MR. BALL: Well, I respectfully ask to have  
7 my license renewed and pay some kind of a fine, double  
8 probation, walking-on-glass-type of thing. That's where  
9 we're at. We're facing bankruptcy and scandal if we can't  
10 get this cleared up and that benefits nobody.

11                  CHAIRMAN EATON: Where did you shred the  
12 tires at?

13                  MR. BALL: I did it at my house.

14                  CHAIRMAN EATON: Where this is?

15                  MR. BALL: Right.

16                  CHAIRMAN EATON: So you stored the tires  
17 there while they were shredded?

18                  MR. BALL: They came in and they were  
19 chopped and went right into the wall as they were going.  
20 The ones that have steel in the sidewall we have do a  
21 little bit different of a process on those because our  
22 razor blades don't take out the steel and we usually let  
23 those bunch up or it did bunch up to about a hundred of  
24 them and we break out the Sawzalls and have to go about it  
25 the hard way.

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1                   CHAIRMAN EATON: All right. Any other  
2 questions or does that complete your rebuttal?

3                   MR. BALL: That completes my rebuttal, I  
4 guess.

5                   CHAIRMAN EATON: Now you have five minutes  
6 to make your final closing argument.

7                   MR. BALL: That was my closing argument.

8                   (Laughter)

9                   MR. BALL: We honestly thought we were  
10 permitted to have under 500. We did not believe that we  
11 would be in trouble for building this wall. We thought it  
12 was an exclusion. We asked the County about doing it --  
13 or I don't mean an exclusion. We thought it was a  
14 positive thing to do with it. We still do think that. We  
15 did ask the County prior to doing it. We respectfully ask  
16 to have our license.

17                   I have a tire store in Plymouth that we  
18 would process our tires in. We have no problem with the  
19 neighbors there, and we would like to go on about our  
20 business, hire a civil engineer, do all the -- cover all  
21 the bases and make you guys satisfied, come back down,  
22 present this to you in a way that is orderly and proceed  
23 at that point.

24                   CHAIRMAN EATON: One other question. Do  
25 you have -- are you going to put in the exhibit, the civil

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1 engineering and the bill? I haven't seen a copy of that.

2 Can I see a copy of that?

3 MR. BALL: As I said, the engineer came  
4 out. He thought that was one of the neatest things he  
5 ever saw. And I've called three times, left messages on  
6 his machine, and he has not returned his call to me. And  
7 the coffee shop talk in the area is that he's trying to do  
8 this back east with some people with big money.

9 BOARD MEMBER PENNINGTON: If he does it in  
10 California, he'd better get a permit.

11 (Laughter)

12 MR. BALL: That's right. And I'll tell him  
13 that too, sir.

14 CHAIRMAN EATON: One thing. This says that  
15 he came out on 7-29-99.

16 MR. BALL: Yes. Shortly after Cody and  
17 Keith came out and said it had to be engineered if I was  
18 to do something like that. Immediately after they came  
19 out, I called the engineer and got him over there.

20 BOARD MEMBER JONES: Our staff  
21 questioned -- it was after our staff said it had to be  
22 engineered that you called the engineer?

23 MR. BALL: Yes, sir. Yes, sir.

24 BOARD MEMBER JONES: Okay. So you're  
25 building this thing. You get information from our staff

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1 that says you have -- this has to be engineered and you  
2 call an engineer.

3 MR. BALL: Yes. I did nothing until I  
4 talked to Terry, started on it, then we went around and  
5 then Cody said -- and him and Keith came out that it had  
6 to be engineered. I had mentioned to the County before  
7 and they just we don't know, and then we had to call the  
8 engineer and had him come in at that time.

9 BOARD MEMBER JONES: How many tires were in  
10 place at that time or the pieces?

11 MR. BALL: The pieces. 340-something tons,  
12 I guess, it was.

13 BOARD MEMBER JONES: So the wall was built.

14 MR. BALL: It was built and it was on the  
15 verge of coming down.

16 BOARD MEMBER JONES: That's when you found  
17 out from Terry it had to be engineered.

18 MR. BALL: No.

19 BOARD MEMBER JONES: You found out before  
20 you put the tires in there or after?

21 MR. BALL: I found out from Cody.

22 BOARD MEMBER JONES: Okay. Help me out.

23 Before or after?

24 MR. BALL: After.

25 BOARD MEMBER JONES: After you put them in

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1 there?

2 MR. BALL: Yes, sir.

3 BOARD MEMBER JONES: Okay.

4 CHAIRMAN EATON: All right. Thank you.

5 Ms. Williams, your close.

6 MS. WILLIAMS: Mr. Chairman, I'll keep my  
7 comments brief. I would just like to summarize for the  
8 Board that, as I'm sure you're aware, the issue that is  
9 before the Board today is the violation of 42951(b) which  
10 requires that a waste tire hauler who hauls waste tires  
11 using his registration to an unpermitted site has violated  
12 the law, and that under 42959 and 42960, the Board has the  
13 authority to deny any application for the reissuance or  
14 renewal of a waste tire hauler registration.

15 The issue also is that, I believe, on the  
16 heels of a previous Board hearing to decide that precise  
17 matter as well, and quite frankly while the Board was  
18 having the proceedings, Mr. Ball was in the process of  
19 creating the pile that we are deliberating over today.

20 He was first contacted in 1996 regarding  
21 waste tire storage violations. He received two Cleanup  
22 and Abatement Orders which he failed to comply with, both  
23 leading to administrative penalty complaints, and he has  
24 been through two administrative penalty hearings. One  
25 arrived at a stipulated decision and the other resulted in

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1 a decision from a judge. It is difficult to believe even  
2 at the conclusion of those two hearings that Mr. Ball was  
3 not perfectly aware that he is required to have some  
4 permission, either from a local jurisdiction or the Board,  
5 in order to have more than 500 waste tires on his site.

6 Further, if the Board would like to take  
7 the opportunity to review the Administrative Complaint  
8 9724 AC, it alleges that at the Fine and Sons waste site  
9 he did indeed have tire shreds and he was informed by  
10 Mr. Cambridge and also through those proceedings that even  
11 for the storage of waste tire shreds he needed to have a  
12 permit in order to store those tires on-site.

13 In essence, Mr. Ball's protestations that  
14 he's unaware of the law and how it applies to him simply  
15 doesn't hold water, and I think that it is possible that  
16 past lenience by this Board has somehow given Mr. Ball the  
17 impression that if he's got a good project going, he's  
18 somehow going to be able to hedge his bets and finally get  
19 his projects moving.

20 I think this particular hearing has  
21 established that in fact Mr. Ball was informed by Terry  
22 Smith that he did need to have either a local agency  
23 agreement or permission or a civil engineer sign-off on  
24 any project of this nature, also demonstrated by the fact  
25 that prior to his creation of this particular site he did

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1 go to the County for clearance and did not receive it. He  
2 did contract with a civil engineer who did not give him  
3 sign-off, and he was in constant contact with the Board  
4 through the offices of Mr. Cambridge for the previous  
5 denial action before the Board and throughout 1999  
6 regarding this one.

7 I believe that Mr. Cambridge's enforcement  
8 of the action before the Board for his 2000 waste tire  
9 hauler registration indicates that the Board, through the  
10 staff and the Board themselves, had bent over backwards to  
11 give Mr. Ball to understand the state of the law, and it  
12 is clear he does understand the state of the law.

13 Despite economic disadvantages, these are  
14 nothing compared -- economic advantages to Mr. Ball as a  
15 result of his illegal activities, these are nothing  
16 compared to the safety violations that his project  
17 proposed. This is evidenced by the fact that Amador  
18 County themselves came to the Waste Board to complain of  
19 the site because they felt there was a significant health  
20 and safety risk posed by this particular site.

21 BOARD MEMBER ROBERTI: Was that before our  
22 last meeting or after?

23 MS. WILLIAMS: It was after your hearing as  
24 testified by Mr. Cambridge.

25 BOARD MEMBER ROBERTI: And they complained

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1 about his retaining site.

2 MS. WILLIAMS: Yes. At the West Clinton  
3 Road site, and based on that complaint in June of 1999,  
4 Mr. Cambridge and Mr. Cody Begley went out to investigate  
5 the site with an Amador County employee, and despite the  
6 fact this site has subsequently been cleaned up, it was  
7 through the effort of many extensions, and I believe that  
8 throughout all of these activities Mr. Ball has  
9 demonstrated his ability to clean up the sites but his  
10 reticence to comply with the letter of the law, and I  
11 believe that in itself is sufficient to support a denial  
12 of renewal of his registration.

13 It is difficult not to consider the fact  
14 that perhaps his site presents some sort of opportunity,  
15 but I request that the Board not consider this as an  
16 opportunity necessarily to establish a new engineering  
17 project but see it for what it is, which is someone who  
18 absolutely stretched the limits of the law in order to  
19 obtain -- not only stretched but exceeded the limits of  
20 the law in order to obtain an economic advantage and that  
21 is exactly why these sort of safety regulations and  
22 statutes are in place to make sure that safety is never  
23 sacrificed for the potential promise of a success of one  
24 of these sites. That is also why it is required that  
25 there be evaluation by the Board and by the County of

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1 these sites, to make sure that those safety violations are  
2 not exceeded.

3 Thank you.

4 CHAIRMAN EATON: All right.

5 Mr. Jones.

6 BOARD MEMBER JONES: Ms. Williams.

7 CHAIRMAN EATON: Questions from the Board  
8 Members?

9 BOARD MEMBER JONES: You said that Amador  
10 County contacted the Board and they were worried about --  
11 they were worried about the hauling --

12 MS. WILLIAMS: They were worried -- I'm  
13 sorry.

14 BOARD MEMBER JONES: -- to the site,  
15 because in testimony it was that I heard earlier, I  
16 thought it was about the hauling and now it's the site and

17 I'm wondering why did Amador County call again.

18 MS. WILLIAMS: I believe it was  
19 Mr. Cambridge's testimony that Amador County, through  
20 Margaret Blood, contacted the Waste Board regarding their  
21 concern about the waste tires that were being stored at  
22 the West Clinton Road facility. If I may confer. That's  
23 correct.

24 CHAIRMAN EATON: Thank you. Any other  
25 questions? Okay. That closes the proceedings and now

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1 we'll issue a decision. We have a recommendation from  
2 staff contained in Resolution 2000-61.

3 BOARD MEMBER ROBERTI: Mr. Chairman.

4 CHAIRMAN EATON: Senator Roberti.

5 BOARD MEMBER ROBERTI: To start the  
6 proceedings, I'll make the motion to adopt Resolution  
7 2000-61.

8 BOARD MEMBER MOULTON-PATTERSON: I'll  
9 second.

10 CHAIRMAN EATON: Senator Roberti moves and  
11 Ms. Moulton-Patterson seconds that we adopt Resolution  
12 2000-61.

13 Madam Secretary, please call the --

14 BOARD MEMBER JONES: Question.

15 CHAIRMAN EATON: Mr. Jones.

16 BOARD MEMBER JONES: There's no time in  
17 this resolution. How long are we denying this permit for?

18 CHAIRMAN EATON: Actually, it's not a  
19 denial of the permit. It's actually the renewal of the  
20 permit is my understanding.

21 BOARD MEMBER JONES: There's no time  
22 involved. When does the operator or the hauler have the  
23 opportunity to reapply for a permit?

24 MR. FITZGERALD: It would be an annual  
25 permit, so November of next year as it would stand now.

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1 November of this year. Excuse me.

2 BOARD MEMBER JONES: So ten months? Nine  
3 months?

4 MR. FITZGERALD: It would be issued in  
5 January, apply in November.

6 BOARD MEMBER ROBERTI: Can we amend the  
7 resolution so -- or no time certain as to when he can  
8 apply for a renewal. So assuming he gets his house in  
9 order, he can come back here, no guarantees. Is there a  
10 way --

11 BOARD MEMBER PENNINGTON: Well, I think the  
12 question even goes further. I notice that you say well,  
13 he can apply in November but it won't be effective until  
14 January. I don't think we would want to say let him apply  
15 in May, but it's not going to be effective until January.  
16 We would have to make sure that if that was the desire --

17 BOARD MEMBER ROBERTI: Could we tail the  
18 resolution without prejudice to Mr. Ball's reapplying for  
19 a permit and having it go into effect at any time 30 days  
20 after adoption of the resolution? That would leave it up  
21 to the discretion of the Board, as I read it. Assuming he  
22 gets his house in order, assuming everybody agrees,  
23 assuming he's still a good citizen on this matter, to  
24 grant him a permit. Do you understand what I'm talking  
25 about?

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1                   CHAIRMAN EATON: I do. I think the statute  
2 doesn't really address the issue. I think once we -- if  
3 we were to adopt your resolution, Mr. Ball is free to  
4 submit whatever application he wants for the current year.  
5 That's how I'm reading it. I think that's what you're  
6 getting at.

7                   BOARD MEMBER ROBERTI: That's probably -- I  
8 want him to be able to come back assuming, for example, if  
9 he can show that Amador County had agreed all along,  
10 Amador County has mislead him, he suddenly has the  
11 greatest engineering project since somebody got a slicer  
12 on bread, whatever, or that he convinces us third time  
13 around that he's for real and he's not doing any more  
14 illegal hauling now or forever in the future. Nobody on  
15 this Board I sense wants to do the distasteful thing of  
16 having to put him out of business unless he's asking for  
17 it through his actions. I would like to be able to  
18 revisit this.

19                  CHAIRMAN EATON: I think we're free under  
20 statute. I think if we try to put conditions on it that  
21 he can't come back before a time, I think that's where we  
22 get in trouble. I think that's it. I think your  
23 resolution is --

24                  BOARD MEMBER ROBERTI: Let's just get  
25 Kathryn to chip in on it.

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1 MS. TOBIAS: I'm sorry. I was talking to  
2 the Executive Director.

3 CHAIRMAN EATON: I think the issue is, at  
4 least -- excuse me if I may frame the issue -- is that  
5 basically the Board, or at least the motion before us is  
6 to not renew the waste tire hauler permit, but the Board  
7 also doesn't or at least one or two Board Members think  
8 they don't want any prejudice for Mr. Ball to be able to  
9 come back in without setting any kind of time  
10 restrictions. If he can come back next week and show he  
11 has X, Y and Z and starts the renewal permit, that allows  
12 for it. If it's 11 months, there's no time frame. The  
13 question is really under the statute we cannot renew, but  
14 without setting any conditions on it. I think that's kind  
15 of what we're trying to go for, and I think the statute  
16 basically says we have the power not to renew, but I don't  
17 think the statute directs us that there's any kind of time  
18 certain where he's prevented from coming back in should  
19 circumstances change.

20 MS. TOBIAS: That's correct. The statute  
21 basically says that the registration is valid from the  
22 date of issuance to January 1st of the next year. So at  
23 whatever point you issue the next one, if one were to be  
24 issued, it would be valid for the rest of that year.

25 BOARD MEMBER JONES: Mr. Chairman.

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1                   CHAIRMAN EATON: Mr. Jones.

2                   BOARD MEMBER JONES: Can I ask the maker of  
3 the motion a question? If -- and I like this motion. The  
4 conditions, when you say put your house in order, because  
5 I think all the shreds, all the tires have been removed  
6 on-site now. We have a bear in site now; correct?

7                   MS. WILLIAMS: The site is clean.

8                   BOARD MEMBER JONES: So we've got a  
9 clean -- this guy has a clean site. Put the house in  
10 order. If this is the use he wants, get it engineered,  
11 get it approved by the County --

12                  BOARD MEMBER ROBERTI: If he can do all  
13 that, I personally -- if he can show that his retention  
14 wall has the proper county permits and he -- and therefore  
15 the proper engineering to do it, I would be prepared to  
16 vote for it because he doesn't have to come to the Waste  
17 Board for that and I forgive past actions with the slap on  
18 the wrist and that is what this, a temporary denial of the  
19 permit, would be. But he's got to come and show  
20 something.

21                  CHAIRMAN EATON: On the other hand, if we  
22 do decide not to renew and Mr. Ball goes out next week and  
23 starts hauling tires and gets cited, that goes against the  
24 permit.

25                  BOARD MEMBER ROBERTI: Absolutely.

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1 BOARD MEMBER JONES: Right.

2 CHAIRMAN EATON: So there's a flip side to  
3 it as well.

4 BOARD MEMBER ROBERTI: Absolutely,  
5 engineering or not.

6 CHAIRMAN EATON: I think that's what you're  
7 talking about, house in order and those kinds of things.

8 BOARD MEMBER ROBERTI: Most important I'm  
9 concerned that you show you're trying to evade the  
10 authority of the Board by finding ways to hauling tires  
11 where you shouldn't. Yes. If you get the end to -- thank  
12 you -- because you have to dot every "I" in Mr. Ball's  
13 case, I think. And yes, absolutely. The fact that you  
14 may have an engineering permit and if while pending that  
15 permit you're hauling in tires, no. That's a no-no. You  
16 can't do that.

17 BOARD MEMBER PENNINGTON: Well,  
18 Mr. Chairman --

19 CHAIRMAN EATON: Mr. Pennington.

20 BOARD MEMBER PENNINGTON: -- we're talking  
21 about his hauling to that one site, but what he's being  
22 charged with is hauling to an illegal site. We want to  
23 make sure that he understands that it's not only to that  
24 engineered site or what he considers an engineered site,  
25 but to any illegal tire site.

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1 BOARD MEMBER JONES: Can't haul tires.

2 CHAIRMAN EATON: He just can't haul tires.

3 BOARD MEMBER PENNINGTON: I also think that  
4 while I don't want to put Mr. Ball out of business, I  
5 think that the last time he was here we did slap him on  
6 the wrist. This time we should at least make sure that he  
7 realizes and has suffered some penalty here. He's cleaned  
8 this all up and he can come back in tomorrow and say I've  
9 cleaned it all up and here's my engineer. The engineer  
10 may answer his voice mail now and be back at this Board  
11 next month to have his permit. I think he needs to feel  
12 the punishment.

13 CHAIRMAN EATON: Ms. Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Thank you,  
15 Mr. Chair. I'm going to be voting for non-renewal and I  
16 also certainly don't want to vote to put anyone out of  
17 business, but I'm very concerned, as Mr. Pennington is,  
18 that our staff has put in a tremendous amount of time on  
19 this. There are other things that we have to do and this  
20 Board has, and I guess this is my first hearing with you,  
21 but I certainly hope that Mr. Ball understands the law,  
22 gets everything that's necessary before he burdens our  
23 staff with this whole thing again and I don't know how we  
24 do that. I'm concerned about that.

25 BOARD MEMBER PENNINGTON: Maybe the way to

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1 do that is I'll offer a substitute motion that says that  
2 we adopt Resolution 2000-61 and deny the issuance of the  
3 permit and restrict Mr. Ball from applying for a new  
4 permit for at least three months.

5 CHAIRMAN EATON: 90 days?

6 BOARD MEMBER PENNINGTON: 90 days, yeah.

7 BOARD MEMBER ROBERTI: I'm glad to withdraw  
8 the motion.

9 CHAIRMAN EATON: Okay. Senator Roberti  
10 withdraws his motion, and the second that was accompanying  
11 thereto?

12 BOARD MEMBER MOULTON-PATTERSON: Yes.

13 CHAIRMAN EATON: So you're free now.

14 BOARD MEMBER MOULTON-PATTERSON: Second.

15 CHAIRMAN EATON: Mr. Pennington moves and  
16 Ms. Moulton-Patterson seconds that we adopt Resolution  
17 2000-61 with the -- amended as follows: That the renewal  
18 for the application for renewal of the Waste Tire Hauler  
19 Registration Number 0107 issued to MB Opportunities shall  
20 be denied; and that MB Opportunities shall not be  
21 permitted to reapply for a permit 90 days after the  
22 effective date of this resolution.

23 Madam Secretary, please call the roll.

24 BOARD SECRETARY: Board Members Jones.

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Moulton-Patterson.  
2 BOARD MEMBER MOULTON-PATTERSON: Aye.  
3 BOARD SECRETARY: Pennington.  
4 BOARD MEMBER PENNINGTON: Aye.  
5 BOARD SECRETARY: Roberti.  
6 BOARD MEMBER ROBERTI: Aye.  
7 BOARD SECRETARY: Chairman Eaton.  
8 CHAIRMAN EATON: Aye.  
9 Aye. Mr. Ball, do you understand what has  
10 just taken place?  
11 MR. BALL: Yeah. You just put me out of  
12 business. Thank you.  
13 CHAIRMAN EATON: Okay.  
14 All right. Members, the representatives  
15 for Item Number 36, which was the draft regulations to  
16 place certain nonhazardous waste in a regulatory tier,  
17 have graciously agreed they would like to accommodate us  
18 and hear that after the lunch time break in order for us  
19 to be able to get through some of the other sort of  
20 non-controversial items so that other Board Members can  
21 meet other commitments.  
22 So with that in mind, if we could then go  
23 to Item Number 42, 43, 44, 46 and 47 pretty quickly, if  
24 that's possible, then we can break for lunch and then come  
25 back and we'll pick up that Item Number 36 at that point.

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1                   So is the Local Assistance and Planning  
2 Compliance Division here? Mr. Leary is. We'll take you.

3                   Item Number 42.

4                   MR. LEARY: Good afternoon, Mr. Chairman  
5 and Members of the Board. My name Mark Leary representing  
6 the Diversion, Planning and Local Assistance Division.

7                   Item 42 before you is consideration of  
8 unincorporated area of Mono County's request for an  
9 extension to their compliance order. The basis of this  
10 extension is that Mono County is proposing to do a waste  
11 generation study and hopes to complete that study when the  
12 businesses are actually open in Mono County. Because the  
13 compliance order requires that they complete that study  
14 by, I believe, April or May of this year and the  
15 businesses will not be open until the summer tourism  
16 season has started, we are proposing to grant that  
17 extension and recommend approval of that extension until  
18 July 31st of this year so they may complete that work and  
19 do the adequate job they hope to do.

20                  CHAIRMAN EATON: Mr. Jones, you're familiar  
21 intimately with this --

22                  BOARD MEMBER JONES: Well, not as  
23 intimately as Inyo, but on the 31st of July, will that be  
24 enough time? Are they comfortable they can get their  
25 stuff done?

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1 MR. LEARY: Yes, they are.

2 BOARD MEMBER JONES: Mr. Chairman, I would  
3 like to move adoption of Resolution Number 2000-29.

4 BOARD MEMBER PENNINGTON: Second.

5 BOARD MEMBER MOULTON-PATTERSON: Second.

6 CHAIRMAN EATON: All right. Mr. Jones  
7 moves and Ms. Moulton-Patterson seconds that we adopt  
8 Resolution 2000-29.

9 Madam Secretary, please call the roll and  
10 establish a roll call.

11 BOARD SECRETARY: Board Members Jones.

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY: Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Aye.

15 BOARD SECRETARY: Pennington.

16 BOARD MEMBER PENNINGTON: Aye.

17 BOARD SECRETARY: Roberti.

18 BOARD MEMBER ROBERTI: Aye.

19 BOARD SECRETARY: Chairman Eaton.

20 CHAIRMAN EATON: Aye.

21 Next item, Item Number 43.

22 MR. LEARY: Item 43 is consideration of  
23 City of Hawthorne's request for an extension to the  
24 compliance order implementation date. I will turn that  
25 over to Board staff member Zane Poulson for that

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1 presentation.

2 MR. POULSON: Good morning or good  
3 afternoon, Chairman Eaton and Members of the Board. I'm  
4 Zane Poulson of the Office of Local Assistance, south  
5 section.

6 On January 27th, 1999, the Board issued the  
7 City of Hawthorne a compliance order for failing to  
8 adequately demonstrate implementation of programs selected  
9 in the City's Source Reduction and Recycling Element or  
10 SRRE. The compliance order specifically required the City  
11 implement all programs listed in the SRRE by January 1st,  
12 2000 or suitable alternatives, documented the City's  
13 progress in quarterly reports to the Board, and work with  
14 staff in the Office of Local Assistance to develop a  
15 performance plan that the City will agree to implement.

16 On March 30th, 1999, the City signed a  
17 performance plan that included five specific programs the  
18 City agreed to implement by the end of 1999. The City has  
19 reported to the Board in their quarterly reports that they  
20 are fully implementing four of the five tasks listed in  
21 the performance plan, the only exception being the  
22 multi-unit dwelling recycling program. The City has  
23 reported to the Board in their quarterly reports they have  
24 begun phasing in the multi-unit dwelling recycling program  
25 but have not achieved full implementation of that program.

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1                   On December 22nd, 1999, the Board received  
2 a formal request for an extension for full implementation  
3 of the multi-unit dwelling recycling program until May  
4 15th, 1999. The City states that the extension is  
5 necessary due to complications in funding the program that  
6 are a result of Proposition 218 requirements.

7                   Because the City has reported in their  
8 quarterly reports that they have completed four of the  
9 five tasks required in their performance plan and that  
10 they have begun phasing in of the multi-unit dwelling  
11 program, and because they have reported that they are  
12 implementing all other programs selected in their SRRE,  
13 staff is recommending the Board grant the extension.

14                  Yesterday afternoon, staff received a faxed  
15 letter from Jerry Jamgotchian who wanted to address the  
16 Board on the subject but was unable to attend the Board  
17 meeting. Copies of the letter have been provided.  
18 Charles Herbertson of the City of Hawthorne is available  
19 to answer any questions the Board may have.

20                  This concludes staff's presentation. Are  
21 there any questions?

22                  CHAIRMAN EATON: Any questions of staff?  
23 Okay.

24                  BOARD MEMBER JONES: I hate seeing 218 used  
25 as a method for not getting a rate increase since there

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1 was an exclusion dealing with solid waste in the bill. It  
2 amazes me how it's always used to make sure it is -- it is  
3 unbelievable.

4 BOARD MEMBER PENNINGTON: Mr. Chairman,  
5 I'll --

6 CHAIRMAN EATON: I take it that was not a  
7 motion.

8 (Laughter)

9 BOARD MEMBER JONES: I'll give them the  
10 extension. I'm just worried about 218 being a scapegoat  
11 for not doing it when there was an exclusion for solid  
12 waste activities in the law.

13 BOARD MEMBER PENNINGTON: I'll move  
14 adoption of Resolution 2000-39 to approve City of  
15 Hawthorne's request for an extension to a compliance order  
16 program implementation due date.

17 BOARD MEMBER JONES: I'll second it.

18 CHAIRMAN EATON: Mr. Pennington moves and  
19 Mr. Jones seconds that we adopt Resolution 2000-39.

20 Without objection, we'll substitute the  
21 previous roll call. Hearing no objection, so shall be  
22 ordered.

23 Item Number 44.

24 MR. SCHIAVO: Okay. Item 44 is  
25 consideration -- this one is a slide show and --

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1                   CHAIRMAN EATON: Good afternoon,  
2 Mr. Schiavo.

3                   MR. SCHIAVO: Good afternoon.  
4                   (Laughter)

5                   MR. SCHIAVO: We jumped ahead. Is it  
6 possible if we could do 47 before 44?

7                   CHAIRMAN EATON: Sure.

8                   MR. SCHIAVO: Okay.

9                   MR. LEARY: Item 47 is consideration of a  
10 voluntary local jurisdiction assistance plan for Tahema  
11 Regional Agency. Mr. Chairman, if you'll indulge me a  
12 minute, as a little bit of a success story, we would like  
13 to give some credit to staff and also to the folks at  
14 Tahema Regional Agency for a job well done. Particularly  
15 I would like to identify Heidi Sanborn and Kyle Pogue for  
16 their efforts in working with this agency to get the  
17 agreement out. Heidi was instrumental in establishing a  
18 cooperative team relationship with folks and Regional  
19 Agency members and set the stage for what was a  
20 collaborative targeted implementation assistance plan.

21                   I believe this plan has been highlighted in  
22 several documents, or this program has been highlighted in  
23 several documents, in fact, in sheets the Board has put  
24 out recently, including the AB 939 report to the  
25 legislature that the Board approved yesterday.

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1                    Kyle relatedly has worked as the county  
2 agency liaison for the Division, has worked with Heidi and  
3 worked with the agency to make this successful program  
4 happen.

5                    So I just wanted to acknowledge their  
6 efforts and express management's appreciation for a job  
7 well done, and I'll turn the presentation over to Kyle to  
8 take it from there.

9                    MR. POGUE: Good afternoon, Mr. Chairman  
10 and Board Members. My name is Kyle Pogue. I'm with the  
11 Office of Local Assistance. I'm basically here today to  
12 tell you a story of how Tahema County transformed their  
13 waste management program from top to bottom.

14                   In 1995, Tahema County had some serious  
15 issues with and problems with their landfill operator  
16 which resulted in a BOE audit. They had program  
17 implementation issues, disposal and diversion measurement  
18 problems, and an overall communication problem in between  
19 the jurisdictions within that county.

20                   In response to those issues, Tahema County  
21 officials met with Board staff and acknowledged they had  
22 problems, and they acknowledged these problems in  
23 particular and developed a plan to tackle that and  
24 confront that issue.

25                   This plan consisted of, first of all,

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1 consulting with Board staff on appropriate components of a  
2 waste hauler and landfill operator contract.  
3 Additionally, they hired Bob Kohn, who is here today, as a  
4 new solid waste manager. Once Bob came on, he did a  
5 number of things to improve the waste management program.  
6 He helped form a regional agency with all the  
7 jurisdictions within the county. The Regional Agency  
8 helped eliminate allocation problems and produced a better  
9 level of communication between those jurisdictions.

10 They established a new base year. They  
11 hired a new contractor for operation of the Red Bluff  
12 landfill and waste services for the cities of Red Bluff,  
13 Tahema and the unincorporated area of Tahema County.  
14 Additionally, they asked for help from the Office of Local  
15 Assistance Targeted Implementation Assistance Section.

16 Through -- voluntarily they came to the  
17 Board to do this and worked with Board staff to determine  
18 program areas that needed to be addressed. These areas  
19 included five different program areas. One would be to  
20 develop procurement policies and consider the use of  
21 rubberized asphalt concrete. Number two is public  
22 education efforts and school recycling programs. Number  
23 three is investigating options for the diversion of food  
24 waste. Number four is performing waste assessments for  
25 the largest commercial agricultural generators and

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1 implementing commercial diversion programs. And the last  
2 one was expanding green waste diversion programs  
3 throughout the county.

4 I just want to say on a personal note it  
5 really has been a pleasure to work with Bob Kohn and his  
6 staff in Tahema County, as well as the local decision  
7 makers there, as well as the local waste haulers. I would  
8 like to also thank various Board staff members for coming  
9 on board to work with that, but I would like to  
10 specifically mention Heidi Sanborn and the work she's  
11 done, not only in Tahema County but in a number of other  
12 counties around the state. She deserves a lot of credit  
13 for this.

14 At this point I would like to introduce Bob  
15 Kohn, solid waste manager for the Tahema County Regional  
16 Agency, and he's going to discuss their programs and what  
17 he sees in the future for Tahema County.

18 Thank you.

19 CHAIRMAN EATON: Thank you.

20 Mr. Kohn, welcome.

21 MR. KOHN: Do I need to repeat my name and  
22 stuff for the Board?

23 CHAIRMAN EATON: It would be good if you  
24 would be kind enough to do so.

25 MR. KOHN: My name is Robert Kohn. I'm the

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1 solid waste manager for the Tahema County Regional Joint  
2 Powers Agency, and I want to say hello to the Board and  
3 Chairman. I appreciate being invited here.

4 I don't know how much I can add to what  
5 Kyle has said, but I would like to thank the Board  
6 basically for allowing the Office of Local Assistance and  
7 the TIA section to spend time with me and the County.  
8 Honestly I don't know that the County would be in the  
9 position they're in had they not been able to do that.  
10 The sources of information and the databases that have  
11 been helped have been a tremendous help to me, ideas on  
12 things to do.

13 As far as the TIA agreement, we're  
14 continuing to work on those things. I just did a waste  
15 assessment on January 13th with Mercy High School, which  
16 is a Catholic school. If they implement what was  
17 recommended, they will reduce their waste by 50 percent.  
18 So we're still continuing to work on those things.

19 We have come a long way, and I think the  
20 year 2000 should be a big year for the regional agencies.  
21 We have several projects in place or coming online we  
22 hope. A Materials Recovery Facility is scheduled to be  
23 complete by July 2000. Compost facility, we just recently  
24 received a grant through the ESJPA for two agricultural  
25 used oil centers. That's going to move along. Hopefully

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1 that will come online in July as well.

2 We also have a VOP in the south county, a  
3 homeowners association we hope to have online. There's  
4 4,000 people in that area and it's remote, and honestly I  
5 didn't even know they were there.

6 (Laughter)

7 MR. KOHN: They don't -- they have to drive  
8 21 miles just to have their oil changed. It's a big  
9 problem, so we're addressing that. Also I am working with  
10 franchise haulers to do something more on Earth Day and  
11 Recycle Week and things like that. This county hasn't  
12 done much of that in the past, but that's going well. We  
13 should have some events this next year.

14 We also hope to address household hazardous  
15 waste. The County has been holding annual events. Those  
16 are very expensive. We're trying to do something on a  
17 more permanent basis, and I even got the Board to agree to  
18 spend \$40,000 a year for that cause. So we will see what  
19 we can do with that. We also hope to address waste tires.  
20 That is a real problem in rural counties and Tehama County  
21 is no exception. So we hope to do that.

22 Those are the things we're planning for  
23 2000 among the other things we're still trying to do, and  
24 I just wanted to again thank the Board for allowing the  
25 staff to spend the time helping us. I think that was

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1 great.

2 I think one other thing I'm going to add,  
3 since state agencies tend to get criticized, when I call  
4 the Waste Board, I generally get a person. And if I  
5 don't, I always get a return phone call. So I would like  
6 to compliment your staff for that. Some state agencies  
7 you call, you're lucky to get a person. So I like that.

8 Thank you.

9 CHAIRMAN EATON: Thank you.

10 BOARD MEMBER ROBERTI: Mr. Chairman.

11 CHAIRMAN EATON: Senator Roberti.

12 BOARD MEMBER ROBERTI: Pursuant to what our  
13 witness is saying, it gives me the chance to say  
14 something. I have heard that as well from people who call  
15 us and saying that I just hope our policy in the future  
16 isn't such that -- and maybe this will be very unpopular  
17 with staff -- that we don't have at-home programs so much  
18 as we did in my agency when I was with the Unemployment  
19 Board where if you wanted to call somebody -- it was a  
20 fine board -- you fought on the voice mail all the time.

21 One of the reasons for that was that we  
22 were so generous with the at-home program that that made  
23 sense when members were talking amongst themselves or  
24 members wanted to talk to staff, but when the public wants  
25 to talk to people, the at-home program doesn't work. It

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1 really only works when we have intra-agency conversation,  
2 and we have to take that into consideration.

3                   So I'm just throwing this out. It's no  
4 peeve at all with our current Board, but it is something  
5 that I experienced when I moved into the bureaucracy from  
6 the legislature. And I'm just throwing that out to the  
7 Members that when we talk about at-home programs, which  
8 are wonderful and convenience staff, we could lose the  
9 positive input we got from the gentleman who just spoke if  
10 at the same time when the public calls they get voice  
11 mail. That doesn't happen here, but I've been in an  
12 agency where it does happen. It is the most frustrating,  
13 horrible thing for a constituent to have to deal with.

14                   CHAIRMAN EATON: Ms. Moulton-Patterson.

15                   BOARD MEMBER MOULTON-PATTERSON: Thank you,  
16 Chairman Eaton. I just wanted to thank you for coming  
17 down and letting us know that. I've heard just wonderful  
18 things about our TIA team, and since I'm relatively new, I  
19 would really like the opportunity to go out with them  
20 sometime. It's been really impressive. So thank you for  
21 taking the time to come and let us know.

22                   CHAIRMAN EATON: Okay. In terms of  
23 measurement when we started, is there any measurement from  
24 when we began or we hope to have and what would that be?

25                   MR. SCHIAVO: I don't have that off the top

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1 of my head. Kyle?

2 CHAIRMAN EATON: I don't understand why.  
3 You've only got a few hundred jurisdictions to keep there.

4 (Laughter)

5 MR. KOHN: When I arrived in '97, January  
6 of '97 is when I accepted the position there, the  
7 jurisdictions were at a negative 19 to a negative 38  
8 percent diversion, and with the base year and the programs  
9 in place, we're at 47 percent positive diversion. So  
10 yeah, it's quite a swing.

11 CHAIRMAN EATON: So the programs, the  
12 measurement, although we get criticized a lot for numbers,  
13 as you get into some of the program development, the  
14 manifestation really is the success of the program.

15 MR. KOHN: You can see the effect of the  
16 programs in the tonnage received at the landfills, 49,000  
17 tons to 42,000 in a three-year period. So it's  
18 significant and the programs do work.

19 Thank you.

20 CHAIRMAN EATON: Thank you, and thank you  
21 for a job well done.

22 BOARD MEMBER JONES: Congratulations.

23 CHAIRMAN EATON: All right. Mr. Schiavo,  
24 do you think we can get through Item 44 and 46 before  
25 12:30, and then the intent is to resume at 2:00. That

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1 would just leave us with a couple remaining items.

2 MR. SCHIAVO: Good morning, Board Members.  
3 I'm here today to present our AB 735 implementation plan  
4 to you. I'll give you an overview of it first.

5 It was signed into law on October 10th,  
6 1999 and became effective January 1st, 2000. It mandates  
7 that local state agencies divert 25 percent of all their  
8 generation by 2002 and 50 percent by 2004. It requires  
9 each state agency or large state facility appoint a  
10 recycling coordinator within that state agency, and it  
11 also -- the law sunsets in January 1st, 2006.

12 The participants as defined in law include  
13 large state offices, departments, divisions, boards,  
14 commissions, community colleges, state colleges and large  
15 state facilities. It encourages the university system to  
16 be part of the program. However, it does not mandate that  
17 they are.

18 Now, with some of the terminology you see  
19 here, it's a little bit confusing in that there's some  
20 redundancy in the way we treat our terminology in that for  
21 instance, our Board contains divisions and offices, and  
22 for that reason we wanted to clean up that terminology and  
23 make it more clear to the participants. So we're  
24 recommending that a state agency be defined as the highest  
25 level of a specific organization. So therefore, the Board

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1 would be the entity reporting, not a division of the Board  
2 or an office of the Board.

3                   Developing a plan, we're looking at the  
4 plan to identifying the focuses on program identification.  
5 It also includes generation numbers and diversion. We're  
6 trying to model the plan after our experiences with the  
7 implementation of AB 939, and what we did is we looked at  
8 the existing SRRE process and then tried to glean out the  
9 most pertinent parts of the SRRE process. By doing that,  
10 we've actually condensed this proposed plan to a  
11 requirement of maybe five to six pages that would be  
12 submitted as a plan as opposed to some of the SRREs which  
13 are hundreds of pages. I think we could have effectively  
14 done that. So we're trying to keep it brief and concise.

15                   We disseminated the plan out to 50 state  
16 departments, and some of those plans actually got  
17 disseminated out to another 150 entities. So we received  
18 some comments back in which we incorporated to date into  
19 this plan.

20                   We've tried to address the terminology  
21 issues because there's -- a lot of times there's  
22 duplication of terminology or different uses of the  
23 terminology, so we kept this plan -- the terminology to be  
24 very similar with the existing annual report system that's  
25 set up for local jurisdictions. That way we can transfer

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1 information back and forth easier. There's a current  
2 familiarity. We already have databases set up to actually  
3 be able to handle that.

4 In developing the plan, there's some  
5 benefits for the state agencies as well as local  
6 jurisdictions and that way you can get the biggest bang  
7 for your buck in which you identify what you have, where  
8 you need to go, and also the plan will assist us in  
9 conveying that information to the local jurisdictions and  
10 so we can have a better focused effort in diverting from  
11 the state facilities. So there will be benefits in this  
12 once we obtain the information.

13 The time line, it's a relatively tight time  
14 frame for implementing of the plan. In January 2000 --  
15 well, it's the presentation today. February 15th, the  
16 plan is to be disseminated to these state agencies. In  
17 March 2000, later March and April, we're planning on  
18 having -- conducting workshops throughout the state -- and  
19 I'll address that in a few minutes -- as well as in April  
20 through July, we're going to be having outreach assistance  
21 to the state agencies and facilities, helping them fill  
22 out the plan, helping them identify programs, helping them  
23 coordinate with local jurisdictions as well.

24 July 15th, the participant plans are to be  
25 submitted to the Board and we begin the review process.

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1 And in January of 2001, we are to have a completed review  
2 and approved process. So again, it's a real tight time  
3 frame. Commencing April 2002, we're to begin an annual  
4 report process, again somewhat similar to the existing  
5 process we have with the local jurisdictions.

6                   Regarding the AB 57 workshops, we're  
7 proposing that workshops later March, and in April, we're  
8 proposing the workshops are going to be conducted on a  
9 regional basis. The workshops will deal with like  
10 facility types such as Department of Corrections  
11 facilities, we would deal with that as a group, offices as  
12 a group, Caltrans facilities projects as a group, because  
13 again there's a lot of similarities and people can share  
14 their experiences so that we can leverage the information  
15 a little better that way.

16                   We're going to be looking at what are the  
17 plan requirements, how do we fill out a plan, walking  
18 through that, how do they identify their waste streams.  
19 Again, look at the biggest-bang-for-the-buck programs, and  
20 then find out what kind of future assistance do they want  
21 so when we commence the outreach process.

22                   The Board last calendar year approved a  
23 contract concept for an awards program for local or for  
24 state facilities, and we're looking at opportunities to  
25 tie that into the jurisdictional efforts so in the future

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1 you'll be seeing a contract concept regarding that. It's  
2 going to recognize the outstanding programs, promote  
3 diversion locality within a city or county, and it's going  
4 to look similar, at least conceptually at this point, to  
5 the trash cutter awards.

6 That's it. It's 27 after.

7 (Laughter)

8 MR. SCHIAVO: Any questions?

9 BOARD MEMBER ROBERTI: Mr. Chairman.

10 CHAIRMAN EATON: Senator Roberti.

11 BOARD MEMBER ROBERTI: Not specifically a  
12 question of Mr. Schiavo, but I certainly want his input on  
13 this. AB 75 is going to go a long way toward giving state  
14 agencies credibility. However, my question is why -- is  
15 there anything we can do about the fact that local  
16 jurisdictions either are credited or debited with the  
17 diversion rate of the state agency? It doesn't make any  
18 sense in my mind. We should set -- if we really want to  
19 implement this, they should be responsible on their own  
20 and the university should have its little category and  
21 department of whatever. The federal agency should have  
22 their little category so that the spotlight can glare on  
23 them rather than the universities sort of being in Davis  
24 or Berkeley or UCLA and getting mixed up with the local  
25 jurisdictions. We miss the enforcement potential.

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1                   My question therefore is, is there anything  
2 that we can do so that the state agencies report on their  
3 own, independent of the local jurisdictions they're in?  
4 The local jurisdiction should neither be credited nor  
5 debited with what the state agencies do now that we have a  
6 full-fledged state agency program that's in operation or  
7 are we stuck by statute to have to report through the  
8 local government mechanism?

9                   MR. SCHIAVO: Currently under existing  
10 statute they're to report within the existing local  
11 government system. However, with AB 75 we will also have  
12 an indicator of what the individual state agencies are  
13 reporting.

14                  BOARD MEMBER ROBERTI: Okay. So we will  
15 have a formalized program for the state agencies.

16                  MR. SCHIAVO: Yes.

17                  BOARD MEMBER ROBERTI: I would suggest,  
18 however, that in the future, certainly for the future for  
19 statute, this Board should seek to have state agencies or  
20 federal agencies exempted out of the local government's  
21 diversion rates, either to give them credit or to debit  
22 them because it makes no sense. They have no authority,  
23 so why in the world is that part of their diversion rate?  
24 It doesn't represent what they're doing or not doing.

25                  So Mr. Chairman, I guess I would like for

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1 the Board at some soon future date to consider  
2 recommending statute to the legislature along those lines,  
3 or if we could just direct the staff to come back within  
4 90 days on that one point.

5 CHAIRMAN EATON: You could do that as well.  
6 There's just a couple of instances where I think, you  
7 know, if that's something that you desire to direct staff  
8 to bring back an item, that's fine as well. I don't have  
9 a problem. I think you're going to -- personally, I think  
10 you're going to run into complications due to that fact  
11 because why should any person, generator of a waste stream  
12 or not, participate? Then the issue becomes what about  
13 local schools. Because the schools themselves -- I agree.  
14 I have, I believe, a way that we can hook in the state  
15 agencies in lieu of a statute, but that's not to say that  
16 we shouldn't proceed with your idea.

17 BOARD MEMBER ROBERTI: Schools are more  
18 difficult.

19 CHAIRMAN EATON: So I think, and this is  
20 just personally speaking, that through the SB 1066  
21 extension program by which we will take into  
22 consideration, hopefully as we examine our criteria, that  
23 if there is a state agency that is adversely impacting a  
24 local jurisdiction, that that local jurisdiction then  
25 should be given the benefit of the doubt as it relates to

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1 a good faith effort to comply. I'm not saying in lieu of  
2 what you're doing --

3 BOARD MEMBER ROBERTI: I understand. I  
4 just want to start the ball rolling --

5 CHAIRMAN EATON: Sure.

6 BOARD MEMBER ROBERTI: -- in this whole  
7 area. One other thing -- and I don't want to hog up all  
8 the time, but -- and why I'm bringing it up now because it  
9 came up with my conversation in my briefing that I had  
10 with Member Moulton-Patterson and Mr. Schiavo, is that I  
11 would like to see us collate all the programs that we  
12 engage in, and especially the local governments engage in,  
13 to -- in which the diversion rate includes programs  
14 dealing with waste reduction for multi-unit families and  
15 commercial buildings, commercial businesses.

16 My strong feeling is that since we don't  
17 mandate what the local governments do, the overwhelming  
18 burden of reducing the waste stream for landfills is on  
19 homeowners and almost minimally on the multi-family units  
20 and commercial buildings. How this came up -- and it came  
21 up in this conversation that I had with Mr. Schiavo on  
22 this item and that's why I'm raising it now and it's  
23 somewhat related. I received a call from the Senate --  
24 the Legislative Joint Audit Committee yesterday asking for  
25 my opinion on Sunshine Canyon, which I'm glad I don't have

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1 to have an official opinion on that --

2 (Laughter)

3 BOARD MEMBER ROBERTI: -- because

4 nevertheless, nevertheless they were surprised to realize  
5 that most of the dumping that's going to go on at Sunshine  
6 Canyon, which frankly I think is a state-of-the-art waste  
7 facility, even though if I were probably on the city  
8 council I wouldn't have voted for it, in Los Angeles is  
9 going to be from commercial and multi-unit housing simply  
10 because the City of L.A. has almost no programs dealing  
11 with commercial multi-unit. They're trying to squeeze the  
12 turnip so that it's the homeowner who pays almost the  
13 exclusive burden of keeping the state grain.

14 We don't seem to have too many programs  
15 because we don't mandate the cities to do anything. Then  
16 the cities say that's all that we can do is we go after  
17 the homeowner. That's not true. I would like to collate  
18 all the various programs that we have, all the various  
19 things that we encourage cities to do to have commercial  
20 and multi-family units recycle, reuse and reduce -- having  
21 agreed to reverse the hierarchy I guess -- and also what  
22 local cities do.

23 Obviously cities that are exclusively  
24 commercial like Vernon and Industry and maybe Commerce  
25 even, just to mention the ones I know in southern

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1 California, must have programs that deal with an awful lot  
2 of commercial waste, and it's really an issue that has not  
3 come to our attention simply because we have felt that we  
4 should -- shouldn't mandate locals, but I think we could  
5 have a revolution brewing because I see it happen in Los  
6 Angeles right now where suddenly the homeowners are  
7 scratching their heads and wondering well, why we need  
8 more landfills? And then they look at the fact that  
9 multi-family units and commercial buildings don't have to  
10 do anything. That's why you need more landfills, because  
11 we're trying to squeeze the homeowner exclusively.

12                   It came up with my conversation with  
13 Mr. Schiavo on this item, so therefore I'm asking that we  
14 collate all the various programs that we have and that  
15 local governments have so that we start letting the world  
16 know that the hierarchy can be reached by pressuring  
17 multi-family units and commercial buildings, as well as  
18 other agencies in government, every bit as much as it can  
19 by pressing the homeowner who up until now has borne the  
20 brunt; not just the brunt, but the overwhelming obligation  
21 for keeping the state grain.

22                   So I would like to collate those programs  
23 and ask that we have, say within 60 days, the staff come  
24 back to us with a list of those programs as well and  
25 recommendations, too.

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1                   CHAIRMAN EATON: As you well know, we have  
2 had some funding sources for the multi-family, if I'm not  
3 mistaken.

4                   BOARD MEMBER ROBERTI: I didn't know that  
5 and thank you for telling me.

6                   CHAIRMAN EATON: But I think the one thing,  
7 too, as I understand, and I believe that I just heard on  
8 the news, I may have made a mistake. I think the County  
9 of Sacramento has just implemented a program.

10                  MR. SCHIAVO: Yeah, and there's --

11                  CHAIRMAN EATON: Again, this is not to take  
12 away with what you've asked for and that. I do believe,  
13 however, that the one thing, too, is that we do have an  
14 ability with -- and I'm not going to go back to 1066 --  
15 but we all lack the statutory authority, but the meantime,  
16 in the interim, once we have the master list, we can go  
17 and analyze. For instance, if there is 70 percent  
18 residential in a community and let's say that they're  
19 falling below their line, and out of that 70 percent, 80  
20 percent are multi-family, we have the ability within 1066  
21 under the corrective action program to ask them to  
22 implement that program. That is a back doorway to get to  
23 what you have. I don't know if we can -- but that's  
24 within our bounds until we're able to --

25                  BOARD MEMBER ROBERTI: Is that something

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1 that we can mandate, and I thank you, but I think  
2 something we should do as well is that -- I know this  
3 happens where I live -- is the impression is given very,  
4 very strongly that well, we have no authority to do  
5 anything other than go after the homeowner. That's a way  
6 of keeping the homeowner appeased and not too angry. I  
7 think we should just shed the light that there is a lot  
8 more authority around, and I think it's our job to let the  
9 world know what we can do and what the law requires or  
10 doesn't require and what programs are out there and then  
11 let the local politicians take the heat if they choose to  
12 or don't choose to. I would just like to collate these  
13 programs in the line also of what you're saying, letting  
14 the world know we have some operating room within 1066.

15 CHAIRMAN EATON: Mr. Jones.

16 BOARD MEMBER JONES: I agree with you a  
17 hundred percent. I think one thing we have to be really  
18 aware of and one of the things I always bring up, when we  
19 do base year adjustments and we continually raise that  
20 bar, it makes it easier for local governments not to  
21 implement the programs. Part of the good faith effort and  
22 part of the 1066 is show us what you're doing -- forget  
23 the number. Show us what you're doing to show good faith.

24 Like Mr. Eaton just said, if you've got a  
25 percentage break -- and I've found in offering programs,

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1 it depends on the voter base. You've got a lot of  
2 homeowners and not a lot of strong industrial,  
3 manufacturing or commercial. The burden of the rate is  
4 going to go on them. If it's -- it depends on how you do  
5 it. A lot of jurisdictions are real square about it.  
6 They equally do it and they want programs for every one of  
7 those things, but I've always found that somebody says  
8 they -- somebody that says we can't do it, we don't have  
9 the authority, the only point they're missing that we  
10 don't want to do it. That's -- and that's why we have to  
11 stay true to good faith effort and the programs to do it.

12 BOARD MEMBER ROBERTI: Linda has a --

13 CHAIRMAN EATON: Ms. Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Thank you,  
15 Mr. Chair. As a new Board Member, I would be very  
16 interested in the presentation as it came out in our  
17 briefing. I'm really interested in the commercial and the  
18 multi-family, what we're doing. I don't know what we can  
19 do and all that. I'm also really interested in the point  
20 that Senator Roberti made about the state institutions  
21 being -- having a separate track, but I wouldn't want to  
22 pull the rug out from cities that have worked very hard  
23 with some of these institutions where it's helped them.  
24 So I would like to see how that works because it could  
25 work both ways, either hurt or help. So I would like to

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1 see that in your presentation and whatever you would be  
2 doing for us. I don't mean to build your work load or  
3 anything, but it would be very helpful.

4 MR. SCHIAVO: Again, the plans are due in  
5 July and that will contain the information for the state  
6 facilities, who they are, what they're doing, the amount  
7 of existing diversion, and that would provide us an awful  
8 lot of good information rather than having to build it  
9 from scratch.

10 MR. CHANDLER: Let me keep this dialogue  
11 going a little bit since I want to make sure that  
12 expectations are met because I heard a 60-day clock and  
13 now I'm hearing July, and the worst thing we can do here  
14 is walk away and have different expectations. The  
15 request, as I understand it, and I want to get back to the  
16 state facilities issue because I want to make sure if  
17 you're looking for legislation or are you looking for a  
18 report or an agenda item, but let's go first to the second  
19 one.

20 Programs that are out there, I would like  
21 an inventory, let's collate, let's list, a listing of all  
22 the programs. Now, I've heard state and I've heard local.  
23 We can clearly in 60 days give you a listing of the state  
24 programs. That's easy. I think what Pat's getting at is  
25 for us to list all of the local programs by jurisdiction,

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1 by sector -- industrial, commercial, residential,  
2 multi-family, agriculture, what have you -- can best be  
3 derived from when the plans come in. The plans are coming  
4 in in July, unless we go back to old data. Frankly, I can  
5 tell if you we start down this path, this is going to  
6 redirect significant resources away from the plan reviews  
7 while we kind of pour through all of the jurisdictions'  
8 plans --

9 BOARD MEMBER ROBERTI: No, I don't want to  
10 do that, but it is relevant to the plan reviews.

11 MR. CHANDLER: It is relevant. I think  
12 what Pat's --

13 BOARD MEMBER ROBERTI: Until I've sort of  
14 focused on this -- I'm just thinking out loud.

15 MR. CHANDLER: Sure.

16 BOARD MEMBER ROBERTI: Until I start  
17 focusing on this, I frankly probably have been as easy  
18 going on the local jurisdictions as anybody on the Board  
19 has been, but I'm starting to think that I have never  
20 really asked them what are you doing as far as your  
21 commercial or multi-family units are concerned programs.  
22 I know I didn't ask that in Lakewood. Now, I don't think  
23 Lakewood has too much. I think if there's a single-family  
24 city, it's Lakewood. Nevertheless, it should have been a  
25 question that was asked because it would have had some

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1 relevance. Maybe they have programs.

2                   So my point is yes, as -- I don't want to  
3 take the time of what this main role of our staff has got  
4 to be and that's come up with recommendations for us on  
5 the 50 percent diversion 2000, but it is sort of relevant  
6 in my mind as to whether I'm going to be hard or soft. If  
7 I see a jurisdiction only banging the homeowners over the  
8 head where they are -- where 60 percent of their waste  
9 stream is commercial or multi-family unit, of course  
10 you're having a problem. You're refusing to go after your  
11 campaign contributors, not to be too brutally honest about  
12 it.

13                   (Laughter)

14                   BOARD MEMBER ROBERTI: And as long as the  
15 homeowners are in the dark and don't realize that this is  
16 the case, they're not going to complain.

17                   MR. CHANDLER: Pat, is there a -- speak up  
18 here. Is there a relatively by April 1st easy way to  
19 inventory the -- collate was the word -- both state and  
20 local programs by multi-family and commercial or you  
21 immediately jumped to the July submittals.

22                   MR. SCHIAVO: Well, there's two elements.  
23 One is July submittals for the state programs. Before  
24 that, the information will just not be very good. We can  
25 utilize the existing program database that we get from the

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1   submittals of the annual reports for the jurisdiction  
2   programs, and those are broken down by residential  
3   programs, by commercial programs. So we can glean that  
4   information readily. It's available.

5                   MR. CHANDLER: Okay.

6                   MR. SCHIAVO: Regarding the percentage of  
7   commercial residential breakdowns, we have that for a lot  
8   of communities based on the original Source Reduction  
9   Recycling Elements and we have used that in the base year  
10  adjustments when we look at the generation, pounds per  
11  person per day figure that we use, so we have a better  
12  indicator for that. So we won't have all of that  
13  information, but we'll have a portion of that. We'll have  
14  the program information for the local jurisdictions. And  
15  again, the state programs, I just -- I have a problem with  
16  that before the July submittals because of the lack of  
17  accuracy for a lot of that.

18                  MR. CHANDLER: So, Mr. Chairman, Senator  
19  Roberti, 60 days. If we had this ready by April 1st, are  
20  you suggesting we provide it in written form or do you  
21  want it to come back before the Board? And by that I'm  
22  suggesting with the April Board meeting, which obviously  
23  is greater than 60 days, but remember you've got these  
24  three weeks of --

25                  BOARD MEMBER ROBERTI: The April Board

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1 meeting is fine.

2 MR. CHANDLER: All right. Pat, does that  
3 seem reasonable? And I've heard this only with collating,  
4 but with recommendations, and I think right now we're  
5 looking at using the 1066 process as at least one avenue  
6 to be evaluating jurisdictions' performance in these  
7 areas. We need to do some additional thinking as well.  
8 I'd like to talk about the state institutions --

9 CHAIRMAN EATON: Let me take an arrow out  
10 of Ms. Moulton-Patterson's quiver that we used yesterday.  
11 My understanding is that the 1066 program discussion for  
12 the Board Members after the workshops are coming back in  
13 the April meeting?

14 MR. SCHIAVO: March or April is what we  
15 talked about.

16 CHAIRMAN EATON: April meeting. If we can  
17 combine both of those, those would seem to be a relevant  
18 thing because then you can look at all of the programs  
19 that deal with locals and we look at what we want to do  
20 with corrective action, and that would fit within your  
21 time frame.

22 BOARD MEMBER ROBERTI: That's fine.

23 CHAIRMAN EATON: The April meeting that you  
24 were --

25 BOARD MEMBER ROBERTI: Fine. April is

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1 enough time. It's not so deep into the year so if it is a  
2 factor in whether we have compliance orders or whatever to  
3 deal with --

4 CHAIRMAN EATON: That will just be general  
5 discussion of how we want to frame the extension processes  
6 based upon the input so we'll be able to see what programs  
7 are available and kind of gives us a nice inventory  
8 because we'll need the information anyway. We won't be  
9 able to frame anything if we don't have the information,  
10 so it sort of dovetails. If it can be done earlier, I'm  
11 happy with that too as well, as long as we have it in time  
12 for the 1066 discussion.

13 MR. CHANDLER: So that would include the  
14 analysis around the state facilities as well. What I'm  
15 hearing is instead of a separate exercise we're being  
16 asked for here today, what you're couching it could be one  
17 and the same, the analysis we're talking about and the  
18 public institutions.

19 BOARD MEMBER ROBERTI: It could be one and  
20 the same because it is -- in my mind, it's all relevant to  
21 how I'm going to vote on extensions.

22 MR. CHANDLER: Okay. Very good. I'm  
23 clear, Pat. Are you? I want to make sure we walk away  
24 and get headed in the right direction here.

25 MR. SCHIAVO: At this point I believe I'm

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1 clear, and if there are any questions --

2 CHAIRMAN EATON: You can always come back.

3 MR. SCHIAVO: -- I can come back and  
4 clarify them.

5 CHAIRMAN EATON: All right. I have two  
6 speakers, believe it or not, and then this will be the  
7 last item before the lunch break contrary to previous  
8 qualifications. Mr. Gary Liss and then Mr. Evan Edgar, if  
9 he's still here. Yes, he is.

10 MR. LISS: Mr. Chairman and Members of the  
11 Board, thank you for the opportunity to speak here today  
12 on this subject. Given the time, I'll try to be as brief  
13 as possible. My name is Gary Liss, President of Gary Liss  
14 and Associates, a recycling consultant based in Loomis,  
15 California. I've been working with several clients on C&D  
16 issues and issues that affect state agencies and wanted to  
17 address some issues that in reviewing the model plan and  
18 the item before you have come up.

19 First of all, AB 75 offers great  
20 opportunity for greater diversion and greater buying  
21 recycled materials from state agencies, and we're thrilled  
22 to see that. Local governments throughout the state have  
23 been calling for this for a decade and we're thrilled that  
24 with your leadership and the Governor's leadership and the  
25 legislature's continued interest in this it has happened.

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1                   The questions are number one, and probably  
2 the most significant one, is will AB 75 apply to projects  
3 of state agencies, for example, highway projects of  
4 Caltrans? In talking with staff, we've heard differing  
5 views from different staff of the Board. It doesn't  
6 pertain to your action today, but rather the  
7 implementation thereafter, so as you go and define what  
8 state agencies have to do, we want to make sure from a  
9 local government perspective that projects of state  
10 agencies are clearly articulated as required to be  
11 governed by AB 75. We have multi-million dollar highway  
12 projects in L.A., in the San Francisco Bay area which  
13 should be governed by this and we want to make sure are.

14                   Secondly, which state agencies will be  
15 covered? Will state courts, commissions like the Public  
16 Utilities Commission? Evidently different laws treat the  
17 exemption of what's exempt and what's in differently. We  
18 would like to see as broad an interpretation of that. The  
19 language in the bill says as the Board, the Waste Board  
20 determines is the definition for the purposes of this act.  
21 So we would like to see you include as many state agencies  
22 as you feel comfortable, including the state courts and  
23 the Public Utilities Commission.

24                   Similar to the issue that Senator Roberti  
25 raised about local government and state interaction, we

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1 would like to encourage state agencies to coordinate  
2 directly with local governments where they are located;  
3 one, to identify the services and resources that are  
4 available from local governments; and two, to report to  
5 local governments on what they're doing. A lot of  
6 state -- the frustration of the past decade has been that  
7 the local governments haven't -- even if they know there's  
8 recycling going on by state agencies, they can't get  
9 information to include it to you in their annual reports.  
10 So as part of your guidance going forward in this, please  
11 ask state agencies to report information to local  
12 governments, and at a minimum have the state agency or the  
13 Waste Board provide a copy of the plan that the state  
14 agency submits to you to every local government recycling  
15 coordinator that will be impacted where they have  
16 facilities.

17                   Fourth, recommend that the model  
18 implementation plan requirements be addressed in  
19 subsequent revisions of the model plan that's presented to  
20 you. As I understand it, the model plan is supposed to go  
21 into effect as the plan for a state agency. It does not  
22 comply by next year with doing their own plan.

23                   As I read the model plan, I don't see any  
24 language that says this is what this agency shall do that  
25 would have that effect. However, in your attachment of

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1 August '99 Waste Reduction Policies and Procedures for  
2 State Agencies, particularly Appendix C, Sample Waste  
3 Reduction and Procurement Policy Statements, there's some  
4 great language in there that you could easily just say  
5 this is what your state agency plan will be if you don't  
6 adopt one yourself. I encourage you to come up with some  
7 tool to address that issue of AB 75.

8 Last, I ask that you coordinate the  
9 implementation of AB 75 with the SB 827 implementation,  
10 Shares Bill that requires the use of recycled materials in  
11 pavement applications and road construction and requires  
12 Department of General Services to do a variety of other  
13 recycled content procurement issues. That will require  
14 coordination within the Waste Board between the  
15 implementation of SB 827, buy recycling issues and AB 75.  
16 I haven't seen that done yet in the documents I've  
17 reviewed. I would encourage you to do that.

18 Thank you very much for the opportunity.  
19 Apologize for impacting your lunch. Thank you.

20 CHAIRMAN EATON: Thank you. Any questions  
21 of Mr. Liss?

22 Mr. Edgar.

23 MR. EDGAR: Evan Edgar, Edgar and  
24 Associates, on behalf of the California Refuse Removal  
25 Council. Three points today.

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1                   First, number one, CRRC supported AB 75  
2 long ago. We'd like to see it. We're glad it's here. We  
3 concur in the previous speaker's comments about including  
4 projects into state facilities. Whereas defined, it  
5 doesn't say upon implementation from the industry  
6 perspective. We would like to see projects from Caltrans  
7 included.

8                   Number two, on a policy document statement  
9 it talks about buying recycled. That couldn't be more  
10 timely. With regards to buying recycled locally, we would  
11 like to reference the green buildings and the landscaping.  
12 We'd love to sell compost back to the local state  
13 agencies.

14                  The last comment, and something I brought  
15 up yesterday, is about the diversion study. It has made a  
16 lot of headway into the compliance orders and now it's  
17 part of the state agency model. And once again, I would  
18 like to recommend to have a peer review and Waste Board  
19 consideration of this study before it gains more steam.

20                  Thank you.

21                  CHAIRMAN EATON: Thank you. Any questions  
22 of Mr. Edgar?

23                  BOARD MEMBER JONES: Question for  
24 Mr. Schiavo, because I have the same question. This thing  
25 is under peer review right now?

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1                   MR. SCHIAVO: Yeah. Actually, it went out.  
2 It's been seen by about 400 or more people so far.

3                   BOARD MEMBER JONES: When are we looking at  
4 adopting it? Is the Board going to adopt it? Because I  
5 have some concerns about some of this stuff.

6                   MR. SCHIAVO: What we're looking at --  
7 we're looking at some examples of implementation efforts  
8 so we can actually have a practical test of it, and then  
9 after we can work that out, we'll bring it back to the  
10 Board.

11                  BOARD MEMBER JONES: Because there's some  
12 verbage issues in there. If you're numbers are too low,  
13 then do a new waste generation study because maybe you  
14 won't have to do programs. I don't think that's verbatim.  
15 There's areas where that's the intent and that's not our  
16 intent, and I know it's not yours. Okay.

17                  Mr. Chairman.

18                  CHAIRMAN EATON: Mr. Jones.

19                  BOARD MEMBER JONES: I'd like to move  
20 adoption of Resolution 2000-34, consideration of approval  
21 of the state agencies, and I want to make sure that the  
22 item of including projects is included, buying recycled is  
23 included, and that would be my motion.

24                  BOARD MEMBER MOULTON-PATTERSON: Second.

25                  CHAIRMAN EATON: Mr. Jones moves and

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1 Ms. Moulton-Patterson seconds that we adopt Resolution  
2 2000-34 as amended by Mr. Jones.

3 Madam Secretary, please call the roll.

4 BOARD SECRETARY: Board Members Jones.

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY: Moulton-Patterson.

7 BOARD MEMBER MOULTON-PATTERSON: Aye.

8 BOARD SECRETARY: Pennington.

9 Roberti.

10 BOARD MEMBER ROBERTI: Aye.

11 BOARD SECRETARY: Chairman Eaton.

12 CHAIRMAN EATON: Aye. And if you could  
13 just hold the roll open until after lunch and  
14 Mr. Pennington will return.

15 That brings us to our lunch break a little  
16 bit late. We will reconvene at 2:15.

17 (Lunch recess taken)

18 CHAIRMAN EATON: Welcome back, everyone,  
19 to hopefully the final segment of our January Board  
20 meeting. Colleagues, any ex parte communications to  
21 report?

22 BOARD MEMBER PENNINGTON: No, I do not.

23 CHAIRMAN EATON: Mr. Jones.

24 BOARD MEMBER JONES: No. Jim Cool from  
25 City of Long Beach on America Recycles, and then it will

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1 become clear as to why it's going to be disclosed.

2 CHAIRMAN EATON: Ms. Moulton-Patterson, ex  
3 parte communications?

4 BOARD MEMBER MOULTON-PATTERSON: No.

5 CHAIRMAN EATON: And I just had a  
6 meet-and-greet with Mike Mohajer.

7 Madam Secretary, the last item that was  
8 left open before we left for lunch, Mr. Pennington did not  
9 have an opportunity to be recorded, so if we could open  
10 the roll on Item Number 44.

11 BOARD SECRETARY: Board Member Pennington.

12 BOARD MEMBER PENNINGTON: Aye.

13 CHAIRMAN EATON: Item Number 46.

14 MR. SCHIAVO: This item will be presented  
15 by Steve Uselton, Supervisor in our southern California  
16 branch.

17 CHAIRMAN EATON: Welcome to northern  
18 California.

19 MR. USELTON: Thank you. Mr. Chairman and  
20 Members of the Board, Item Number 46 is for your  
21 consideration of an award of contract to the University of  
22 California, Los Angeles to complete the required task and  
23 the scope of work entitled "State Agency Guide and  
24 Workshops for Measuring Waste Generation and Diversion."  
25 The scope of work was approved on January 25th on consent

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1 and is included in your agenda packets.

2                   Total consideration of the award is for  
3 \$40,000 with all work to be completed by April of 2000.  
4 As presented in the item regarding the state agency model  
5 Integrated Waste Management Plan, each state agency and  
6 large state facility will now be required to develop and  
7 adopt in consultation with the Board an Integrated Waste  
8 Management Plan by July 19th of 2000.

9                   In preparing this plan, each state agency  
10 and large state facility will need to gather data and make  
11 estimates of the diversion and disposal tonnage associated  
12 with implementation of selected activities or programs.  
13 The state agency guide and workshops will provide  
14 easy-to-use methodologies and techniques for state  
15 agencies to use in making these estimates.

16                   Staff of the UCLA Waste Management and  
17 Recycling Extension Program have experience and expertise  
18 in developing similar tools and workshops in diversion  
19 measurement for local jurisdictions and also businesses.

20                   Staff is requesting that the Board adopt  
21 Resolution 2000-53 and award an interagency agreement with  
22 the University of California, Los Angeles in the amount of  
23 \$40,000 to complete the task and the scope of work.

24                   CHAIRMAN EATON: Any questions of staff?

25                   BOARD MEMBER JONES: Mr. Chairman.

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1                   CHAIRMAN EATON: Mr. Jones.

2                   BOARD MEMBER JONES: The -- I don't think I  
3 have any problem with this, but the documents and stuff  
4 that are generated out of UC, who owns those?

5                   MR. USELTON: We will own those.

6                   BOARD MEMBER JONES: Okay. We don't need  
7 to be paying for this stuff forever. I just want to make  
8 sure. Mr. Chairman.

9                   CHAIRMAN EATON: Thank you for guarding the  
10 treasury.

11                   (Laughter)

12                   BOARD MEMBER JONES: Mr. Chairman, I would  
13 like to move adoption of Resolution Number 2000-53,  
14 consideration of award of contract to the University of  
15 California, Los Angeles for the State Agency Guide for  
16 Measuring Waste Generation and Diversion, contract concept  
17 number 7.

18                   BOARD MEMBER PENNINGTON: Second.

19                   CHAIRMAN EATON: All right.

20                   Mr. Jones moves and Mr. Pennington seconds  
21 that we adopt Resolution 2000-53.

22                   Madam Secretary, please call the roll.

23                   BOARD SECRETARY: Board Members Jones.

24                   BOARD MEMBER JONES: Aye.

25                   BOARD SECRETARY: Moulton-Patterson.

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1                   BOARD MEMBER MOULTON-PATTERSON: Aye.

2                   BOARD SECRETARY: Pennington.

3                   BOARD MEMBER PENNINGTON: Aye.

4                   BOARD SECRETARY: Roberti.

5                   BOARD MEMBER ROBERTI: Aye.

6                   BOARD SECRETARY: Chairman Eaton.

7                   CHAIRMAN EATON: Aye. Okay. Senator, we

8 just started that task and opened up the roll on a

9 previous matter for Mr. Pennington. Any ex parte

10 communications that need to be disclosed? Okay. All

11 right.

12                   I think that completes Mr. Schiavo's work,

13 and then as we mentioned before --

14                   BOARD MEMBER PENNINGTON: I hope so. He's

15 out the door.

16                   (Laughter)

17                   CHAIRMAN EATON: Going back to that

18 meeting, I'm sure. As mentioned, the item concerning the

19 draft regulations relating to nonhazardous waste into a

20 regulatory tier, I'm trying to see if parties are --

21 Mr. Weiner is still here. He's here? He was kind enough

22 to -- we'll go to Item Number 36 which was draft

23 regulations placing certain nonhazardous waste into a

24 regulatory tier, and Members, if you remember, this item

25 was the item that was substituted in place of the AB 59

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1 appeal as related to Safety-Kleen. Mr. Bledsoe from the  
2 Legal Office is going to make a presentation.

3 MR. BLEDSOE: Thank you, Mr. Chairman,  
4 Board Members. Michael Bledsoe from the Legal Office.

5 As you'll recall, the Safety-Kleen appeal  
6 of Imperial County's cease and desist order had originally  
7 been scheduled for this meeting. That appeal was pulled  
8 from the agenda at the request of the parties.

9 We received on January 13 a written request  
10 from Safety-Kleen and Imperial County Local Enforcement  
11 Agency requesting that the Board hold that appeal in  
12 abeyance while the Board considering placing the  
13 particular nonhazardous wastes in question here into the  
14 Waste Board's tiered permitting structure. The parties  
15 recommend the registration tier and advised us that during  
16 the Board's consideration of these regulations, if it  
17 decides to do so, Safety-Kleen will continue not accepting  
18 these wastes at its Westmorland facility.

19 Within the limits that I'll describe in a  
20 moment here in the staff report, we think that that  
21 concept has a lot of merit and we would recommend -- with  
22 some modifications recommend it to the Board.

23 Preliminarily, I would like to advise you  
24 that the proposal submitted by Safety-Kleen and Imperial  
25 County does not in any way bind this Board. We're not a

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1 party to whatever agreement they might have made. Nothing  
2 that they have put in their letters to the Board can be  
3 imputed to the Board, so we're not constrained by whatever  
4 desires those parties may have here.

5                   In a particular we call your attention, the  
6 Board may have concern with a reference in Safety-Kleen's  
7 January 13 letter to an administrative registration permit,  
8 and I would suggest a better way of looking at your  
9 registration permit is to consider it as a permit by rule  
10 kind of a program, which was the way it was designed.  
11 Essentially, the Waste Board delegates the responsibility  
12 to the Local Enforcement Agency to evaluate applications  
13 for a permit that comes in in the registration tier, and  
14 if the facility complies with the standards and  
15 requirements that are set out in the regulations, then the  
16 LEA issues the permit. The Board does not have to  
17 separately concur in those permits, so it in essence is a  
18 permit by rule approach.

19                   Secondly, I would point out that the fact  
20 that Safety-Kleen and Imperial County have recommended  
21 that the Board adopt a registration permit for these types  
22 of waste. That recommendation does not prejudice the  
23 Board or the staff in the Board's decision as to what  
24 level of permit or type of permit should be required, nor  
25 does it prejudice staff's ability to make a recommendation

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1 to you of some different level of tier, and as I'll point  
2 out in this discussion, staff has not fully evaluated what  
3 the appropriate tier should be, and we'll be doing so if  
4 the Board directs staff in that direction.

5                   So in summary the recommendation that I  
6 will read at the end of this presentation is that staff is  
7 recommending to the Board that it direct staff to develop  
8 emergency regulations and subsequently permanent  
9 regulations to place certain nonhazardous, non-putrescible  
10 industrial wastes that are going to be defined within the  
11 regulations, to place them into the Waste Board's tiered  
12 permitting structure at a level no less than the  
13 registration tier. Those regulations would provide that  
14 once the facility has received such a tiered permit from  
15 the Local Enforcement Agency, the waste could be disposed  
16 in a Class I hazardous waste facility fully regulated by  
17 the Department of Toxic Substances Control.

18                   You'll recall by way of background that  
19 Safety-Kleen Westmorland, Incorporated owns and operates a  
20 Class I hazardous waste disposal facility in Westmorland  
21 in Imperial County. For some years prior to the cease and  
22 desist order issued by Imperial County, that facility had  
23 been accepting certain non-putrescible, nonhazardous waste  
24 in addition to a full range of hazardous wastes at the  
25 facility.

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1                   In April of 1999, Imperial County issued a  
2   cease and desist order directing that until it obtained a  
3   Solid Waste Facility Permit, the facility cease accepting  
4   nonhazardous wastes. The hazardous wastes, of course, are  
5   covered by the facility's Class I hazardous waste facility  
6   permit. Ultimately that cease and desist order was  
7   appealed to the Board, originally scheduled for Board  
8   hearing in September and subsequently postponed at the  
9   request of the parties.

10                  Safety-Kleen and Imperial County are now  
11   requesting that the Board suspend its consideration of the  
12   appeal for up to one year during which time the Board  
13   would consider and ultimately adopt the regulations that  
14   would place these particular wastes in the tiered system.

15                  In the course of investigating the  
16   situation arising -- out of which arose the Safety-Kleen  
17   appeal, staff learned that all three Class I hazardous  
18   waste disposal facilities in California accept these same  
19   types of non-putrescible, nonhazardous industrial waste.  
20   None of them have Solid Waste Facility Permits from the  
21   Waste Board. All three, of course, have Class I facility  
22   permits from DTSC. Not to confuse the issue, but I would  
23   point out that Safety-Kleen owns two of the facilities.  
24   Chemical Waste Management, Incorporated owns the third  
25   facility. That third facility owned by Chem Waste does

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1 have a separate cell in which it disposes municipal solid  
2 waste. So it has a Class I facility permit for a separate  
3 facility, a Class II and Class III permit. The wastes in  
4 question here, though, what I'm calling non-putrescible,  
5 nonhazardous wastes, are disposed in Chem Waste's Class I  
6 facility. So all three of these facilities are operating  
7 in the same manner.

8                   The levels of the waste are pretty  
9 substantial. At the Westmorland facility, which  
10 Safety-Kleen owns, about 25 percent of the waste that it  
11 accepted in 1998 fell within this nonhazardous category,  
12 and Safety-Kleen's Buttonwillow facility takes in roughly  
13 half of its waste at this of nonhazardous waste. The  
14 Chemical Waste facility in Kettleman Hills I don't have  
15 hard numbers on, but the facility operator has estimated  
16 it's in the 5 to 10 percent range.

17                   So obviously any decision that the Board  
18 would make regarding Safety-Kleen, had their appeal gone  
19 forward, would also affect these other two facilities. By  
20 treating this matter in the form of regulations, it  
21 provides the Board the opportunity to look somewhat more  
22 broadly at the issue than it would have otherwise been  
23 able to in the appeal if this had just come before the  
24 Board as an appeal. That also provides the other  
25 operators and interested public agencies and interested

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1 citizens to participate in the process of defining  
2 regulations for these facilities as well.

3                   The fundamental concept that we're  
4 suggesting to the Board today is that a very narrowly  
5 defined class of nonhazardous, non-putrescible industrial  
6 wastes could be disposed in a Class I facility upon  
7 obtaining the appropriate tiered permit from the Local  
8 Enforcement Agency.

9                   By way of context, you'll recall that it is  
10 staff's position that current law, Public Resources Code  
11 Section 44103(b) requires that a Solid Waste Facility  
12 Permit be obtained before any facility accepts the waste  
13 that I've described for disposal. Safety-Kleen certainly  
14 has a different perspective on what that statute means,  
15 and if the appeal were going forward, they would present  
16 their side, their analysis of why they don't believe that  
17 statute requires a Solid Waste Facility Permit.

18                   By bringing this item before the Board,  
19 we're seeking direction from you as to whether you wish to  
20 consider placing these wastes into the regulatory tier  
21 system, and if you decide to do so, that will satisfy the  
22 statutory requirement that the facility obtain a Solid  
23 Waste Facility Permit in order to accept these wastes  
24 since of course all of the permits under our tiered system  
25 are considered permits with the exception of the

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1 notification permit, which is really not considered a  
2 Solid Waste Facility Permit.

3                   There are three key issues for the Board to  
4 consider here. The first is the timing of the development  
5 of the regulations. The second is what wastes are  
6 appropriate to be included within this category. Lastly,  
7 what tier is important -- pardon me. What tier is  
8 appropriate.

9                   The latter two questions, what exactly is  
10 the waste stream to be included and at what level of  
11 regulation, those should be evaluated by staff over the  
12 coming month or two as the emergency regs are drafted and  
13 then would be fully considered by the Board when you hear  
14 this matter in the form of proposed regulations.

15                   As for timing, when the Board considers a  
16 new waste stream for inclusion in the tiered system,  
17 normally the Board first determines whether a permit is  
18 required at all and then subsequently figures out what  
19 tier should those wastes be placed in. In this situation,  
20 we believe that the law already requires a Solid Waste  
21 Facility Permit and that by proceeding with the  
22 regulations at this point, we can more quickly get to the  
23 position where all three facilities are permitted under  
24 state law.

25                   Again, normally in developing regulations

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1 for tiered waste streams, the Board essentially follows  
2 the first-come, first-served approach and a queue is  
3 created where waste is waiting for regulations to be  
4 prepared. That queue is about 18 to 24 months long right  
5 now. There are three waste streams awaiting regulations  
6 or final regulations -- C&D materials, organics and  
7 semi-solids. Again, this is a special case that I think  
8 merits pushing these nonhazardous wastes to the front of  
9 that queue since we have three facilities that are all  
10 operating in the same way handling these wastes, and if  
11 the Board adopts regulations quickly, we can bring them  
12 all into compliance with the law pretty quickly.

13                   As for what wastes are appropriate to be  
14 included in the regulations, I see this as the most  
15 critical task that staff will have to develop  
16 recommendations on and ultimately the Board will have to  
17 decide. Non-putrescible, nonhazardous industrial wastes  
18 is certainly not a sufficient definition, and we're going  
19 to have to really narrow that down. That definition is  
20 actually is what will differentiate these facilities from  
21 any typical solid waste facility that would receive the  
22 full range of municipal solid wastes.

23                   The wastes originate generally from  
24 industrial procedures, processes, and from hazardous waste  
25 cleanups. Safety-Kleen Westmorland has provided a list of

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1 the types of waste that they -- nonhazardous wastes that  
2 they've received over the last three years at their  
3 Westmorland facility so it can give you a better idea of  
4 the kinds of wastes that we're talking about. Just  
5 picking up the largest categories from their list, there  
6 are about 15 different classifications of nonhazardous  
7 waste. Soil contaminated with various hazardous materials  
8 is the largest quantity, so these would be soils from  
9 hazardous waste cleanup sites that are contaminated but  
10 not to the level of being hazardous. So they'll have some  
11 hazardous substances in them, but they're not classified  
12 as hazardous waste. Soil contaminated with  
13 hydrocarbons -- those primarily come from underground  
14 storage tank cleanups -- spent filter media like filter  
15 cakes used in industrial procedures, inorganic solids,  
16 oil-soaked timber, absorbent materials, and then a fairly  
17 large category of wastes that are not fully -- not  
18 specifically identified. That would include construction  
19 and demolition debris that would be contaminated with lead  
20 or arsenic or other contaminants. So those are the kinds  
21 of wastes that we're talking about.

22 In the course of drafting regulations and  
23 in the Board's ultimate consideration of the regulations,  
24 it may be appropriate to set a limit on the amount of  
25 nonhazardous waste that any single hazardous waste

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1 facility could take, either on a tonnage basis or as a  
2 percentage basis of the total waste, because at some point  
3 a facility that starts off as a hazardous waste facility,  
4 if most of the waste that it's taking is nonhazardous, it  
5 might be more appropriate to treat that as a solid waste  
6 facility but under a different permit regime, and you  
7 might want at that point even want to require a separate  
8 cell.

9                   The second fundamental issue that the Board  
10 will need to work on is what is the appropriate tier that  
11 these wastes should be placed in. As I noted above, staff  
12 has not analyzed this situation in sufficient detail to  
13 make a recommendation to you on that at this point, but  
14 it's clear that some level of Waste Board and Local  
15 Enforcement Agency oversight is needed for these wastes.  
16 The statute requires a Solid Waste Facility Permit, and at  
17 present large quantities of nonhazardous waste are being  
18 disposed without what we see as the required permit. This  
19 obviously creates an unfair situation for solid waste  
20 facilities that accept these wastes for disposal since  
21 they do have the required Solid Waste Facility Permit.

22                   As noted, these wastes would be narrowly  
23 defined to include only non-putrescible industrial types  
24 of waste and that they would be disposed only at highly  
25 regulated facilities. We need to recall that California's

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1 Class I facilities are stringently regulated by DTSC, also  
2 regulated by the Regional Water Quality Control Board, and  
3 of course EPA has oversight authority there.

4                   Based on the information that we have to  
5 date, we have no indication that any environmental hazard  
6 would be caused or any harm to the public health and  
7 safety would be caused by disposing these nonhazardous  
8 wastes in a hazardous waste facility, and we think that a  
9 tiered permit would be sufficient to apprise local  
10 governments as to the amounts of waste that are being  
11 disposed, the operator's ability to handle those wastes,  
12 and the amounts of waste that are being handled.

13                   We've discussed this concept of tiered  
14 permitting with the three counties in which the hazardous  
15 waste facilities are located. Kern County and Kings  
16 County are the other two counties, along with Imperial,  
17 that have these facilities. Kings County and Kern County  
18 have advised us that they don't believe any permit is  
19 required at all. They think -- notwithstanding Section  
20 44103, they don't believe a Solid Waste Facility Permit  
21 should be required. Imperial County believes that a  
22 registration permit should be required and that a  
23 registration permit is a high enough level given the  
24 amounts of waste and the types of waste that Safety-Kleen  
25 is now accepting.

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1                   Under the tiered system, regulations can be  
2 specifically designed to handle the particular waste  
3 stream and particular management techniques that are  
4 necessary for sufficient environmental and public health  
5 protection. I would point out that this Board, or a  
6 future Board, if it were to learn in the future through  
7 new information that there were some reason to be  
8 concerned with these wastes, statutory change or just  
9 different policy could ultimately decide that a different  
10 permitting system is required in the future. So once a  
11 decision is made, placing these in a tier does not  
12 preclude the Board from reconsidering that matter at some  
13 point in the future.

14                   Lastly, we did not believe that placing  
15 these wastes into a particular tier necessarily sets a  
16 precedent for any other kinds of waste that the Board  
17 would be considering for tiering. This is a very special  
18 case and a narrowly defined waste stream that's going to  
19 be disposed in only three facilities, all of which are  
20 highly regulated. We did not see that a Board decision  
21 regarding these wastes would necessarily constrain the  
22 Board in making any decision about other waste streams in  
23 other tiering decisions it might make.

24                   Consequently, we would recommend that the  
25 Board approve Resolution 2000-97 directing staff to

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1 develop emergency regulations and subsequently permanent  
2 regulations. The regulations would provide that certain  
3 nonhazardous, non-putrescible industrial wastes to be  
4 defined in the course of developing the regulations would  
5 be placed in regulatory tier at not less than the  
6 registration tier level, such that those wastes may be  
7 disposed in DTSC permitted Class I hazardous waste  
8 facilities after the facility has received the required  
9 permit.

10 Thank you very much, Mr. Chairman.

11 CHAIRMAN EATON: Thank you, Mr. Bledsoe.

12 Any questions of Mr. Bledsoe?

13 BOARD MEMBER ROBERTI: How does this affect  
14 the diversion rate of cities?

15 MR. BLEDSOE: There are several communities  
16 that are wrestling with diversion questions. This would  
17 be one more situation to be added to that list that's  
18 currently being reviewed at staff and in the legislature.  
19 It's not known at these three facilities whether the  
20 wastes that are being disposed of at these three hazardous  
21 waste facilities were included in the inventory at this  
22 point.

23 BOARD MEMBER ROBERTI: Now right now, if  
24 you would go to a Class II dump, you would have to pay a  
25 tipping fee.

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1 MR. BLEDSOE: That's correct.

2 BOARD MEMBER ROBERTI: What do they pay at  
3 the Class I dump?

4 MR. BLEDSOE: They do not pay any state  
5 Waste Board fee or local waste board fee on these  
6 particular wastes, local LEA fee on these particular  
7 wastes. They do pay on all the hazardous waste that they  
8 dispose of, DTSC fees --

9 BOARD MEMBER ROBERTI: I understand that.  
10 When this waste comes to a Class I landfill and they see  
11 this nonhazardous waste, is there any charge?

12 MR. BLEDSOE: Under current situation?

13 BOARD MEMBER ROBERTI: Yes.

14 MR. BLEDSOE: No, not a government-imposed  
15 charge. The facility might charge whatever for the right  
16 to dispose of that.

17 BOARD MEMBER ROBERTI: Well, does the  
18 government get any money?

19 MR. BLEDSOE: Not from these wastes, no,  
20 sir.

21 BOARD MEMBER ROBERTI: So if we adopted  
22 this resolution, then in effect the jurisdiction would be  
23 escaping -- assuming it's a jurisdiction -- would be  
24 escaping the fees which they would have paid had they gone  
25 through a tier --

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1                   MR. BLEDSOE: Under these regulations, if  
2 the Board were to adopt regulations, then these wastes  
3 would be subject to the Waste Board's \$1.34 per ton fee.

4                   BOARD MEMBER ROBERTI: If we adopt these  
5 regulations.

6                   MR. BLEDSOE: Correct. So that would level  
7 the playing field if they were disposed of in a Class I  
8 facility or a Class II facility. The same fees would be  
9 paid to the Waste Board and the LEA.

10                  BOARD MEMBER ROBERTI: And right now if  
11 they dispose at the Class I, they pay nothing.

12                  MR. BLEDSOE: They pay nothing to the Waste  
13 Board or for these wastes to DTSC, correct.

14                  BOARD MEMBER ROBERTI: Does anybody pay --  
15 does the landfill have any charges that they would pay?

16                  MR. BLEDSOE: The landfill has its own  
17 charge for disposing of the wastes, unrelated to  
18 government fee.

19                  BOARD MEMBER ROBERTI: So you don't see --  
20 so you wouldn't see if we adopted this resolution whether  
21 the government would receive less money for the  
22 administration of waste programs.

23                  MR. BLEDSOE: No. The government would  
24 receive more money.

25                  BOARD MEMBER ROBERTI: Okay.

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1 CHAIRMAN EATON: Any other questions?

2 BOARD MEMBER JONES: I have a couple.

3 CHAIRMAN EATON: Mr. Jones.

4 BOARD MEMBER JONES: The Westmorland site,  
5 25 percent of the waste is nonhazardous. Do you have any  
6 tonnage to go with that?

7 MR. BLEDSOE: I don't have that with me, so  
8 no. I'm sorry. I have it upstairs. I can provide it to  
9 you.

10 BOARD MEMBER JONES: Buttonwillow is at 50.

11 MR. BLEDSOE: Correct.

12 BOARD MEMBER JONES: And Kettleman is at 5?

13 MR. BLEDSOE: Estimate 5 to 10 percent,  
14 yes.

15 BOARD MEMBER JONES: Because I think that  
16 it -- the thing I'm concerned about is I know the  
17 environmental protection is in place at a Class I landfill  
18 to a higher extent than our Class II and III landfill  
19 operating standards so that's not an issue, but I know  
20 that one thing that I don't want -- I'd like to see this  
21 thing resolved through this registration tier so that it  
22 eliminates an old existing MOU that went through due  
23 diligence I guess two or three times and everybody thought  
24 it was okay -- which kind of blew me away -- but what I  
25 don't understand is that there's two conditions in the

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1 MOU -- one, that it be group one waste, which is hazardous  
2 waste; and two, that it be a diminimus amount or some low  
3 volume. 5 percent I think is reasonable. 50 percent is  
4 not.

5                   So at some point these become regular  
6 landfills as more and more hazardous waste either goes out  
7 of state or is declassified or whatever. Where it  
8 wouldn't take advantage of California Class I sites, I  
9 want to make sure that if the registration tier can  
10 accommodate and through this process put some kind of a  
11 tonnage acceptance, whether it's through a percentage or  
12 whatever, that over a long period of time would take it  
13 into another tier; not to increase regulatory oversight,  
14 but to make sure that the LEA and all those jurisdictions  
15 have the opportunity to put the conditions on that they  
16 need.

17                   Personally, I'm a little concerned when  
18 Kern County and Kings -- maybe not so much Kings County  
19 because of the 5 percent number. Maybe they can say  
20 that's still within the intent of the MOU, but Kern County  
21 that sees 50 percent of waste when it was clear in the  
22 statute and it was clear in the MOU that that was not an  
23 acceptable level and to think that they don't need  
24 regulations keeps bringing us back to Kern County and LEA  
25 evaluations because there's a pattern there that is

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1 another issue. But it scares me and it scares me if we're  
2 going into a regulatory -- if we're going to make  
3 regulations, that's a negotiating -- that's the time to  
4 negotiate. That's the way everybody needs to be, but I'm  
5 worried that the negotiations somehow take away -- give  
6 advantage to three facilities over all the other  
7 facilities in the state just because a waste stream had  
8 dried up.

9 I just want to make sure that doesn't  
10 happen, but I think those are reasonable conditions to put  
11 on because I think that going through this process puts  
12 everybody in compliance and gives everybody a level of  
13 comfort, but I don't want to see somebody get an advantage  
14 over anybody else.

15 MR. BLEDSOE: Right. Right. I would point  
16 out that the Buttonwillow facility, which has the 50  
17 percent nonhazardous waste, is receiving a large quantity  
18 of waste from the Avila Beach cleanup right now. Of that  
19 50 percent, a significant portion would be from that  
20 hopefully one-time event.

21 BOARD MEMBER JONES: One-time event. Okay.  
22 That's wonderful.

23 CHAIRMAN EATON: Any other questions of  
24 Mr. Bledsoe before we take the public comments?  
25 Mr. Gerald Quick, I believe, if so you desire.

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1                   MR. QUICK:  Chairman Eaton and Members of  
2 the Board, my name is Gerald Quick.  I'm the contact  
3 person for the LEA in Imperial County, and I wish to  
4 support staff's recommendation that your Board order them  
5 to develop emergency regulations to handle the waste that  
6 you've heard so much about.

7                   Frankly, that's all I need to say.  Thank  
8 you.

9                   CHAIRMAN EATON:  Thank you very much,  
10 Mr. Quick.  It's been a long process.

11                  Mr. Peter Weiner.  Thank you, Mr. Weiner,  
12 for your courtesy this morning and allowing us to complete  
13 some of the other business.

14                  MR. WEINER:  Thank you very much, Chairman  
15 Eaton.  Chairman Eaton and Members of the Board, I'm Peter  
16 Weiner.  I'm with the law firm of Paul, Hastings, Jenofski  
17 and Walker, and I represent Safety-Kleen in this  
18 proceeding.

19                  We're very pleased to be here today and  
20 we're very pleased to be able to come to a conclusion with  
21 the County of Imperial that allows this process to go  
22 forward in a constructive manner that looks forward rather  
23 than backward.  We're very hopeful that we can proceed in  
24 that fashion and we have not, of course, dismissed the  
25 appeal.  It's suspended so that all the parties have the

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1 right to come back to the Board if they perceive that  
2 there's an issue.

3                   Because, as Mr. Bledsoe so ably stated, it  
4 is clear we disagree with Board staff on several issues.  
5 I think it is incumbent upon me to mention a couple of  
6 those issues in that the record of this proceeding does  
7 have to do with what staff does going forward.

8                   We absolutely concur with staff that  
9 nothing that Safety-Kleen and the County said in their  
10 letter to you is binding upon the Board or staff. In  
11 particular, there's certainly nothing binding upon you to  
12 require that a registration tier be adopted rather than  
13 another tier. I should say, however, on behalf of  
14 Safety-Kleen, that from our point of view this is a  
15 fragile settlement that we have reached.

16                   We believe, along with staff and as  
17 Mr. Jones expressed, that environmental protection has  
18 been amply served in this matter by DTSC regulation, and  
19 as you know, the other two counties believe that no permit  
20 should be required at all. Therefore, I would point out  
21 that where staff says that if the Board determined that  
22 adequate protection is not achieved by a tiered permit, a  
23 full permit would be required. That's staff's position,  
24 not ours. We would, of course, reinstate our appeal.

25                   We agree that the issues have to do, in

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1 creating a registration tier, with timing and which wastes  
2 in which tier, and we are certainly in congruence or we  
3 certainly defer to the Board and to staff as to the timing  
4 of development of these regulations. We don't mean to  
5 jump over anybody else who's in line, but that's the Board  
6 determination and we certainly are fine with that.

7                   We are concerned about staff's position  
8 that a, quote, very narrowly defined class, unquote, of  
9 non-putrescible, nonhazardous industrial waste would be  
10 put into this tier. I only say that because it is true  
11 that we gave staff a list of 15 categories that we accept  
12 at Westmorland. If staff believes those 15 categories are  
13 a very narrowly defined class, then we're in agreement.  
14 But you know what adjectives are. They're different  
15 things to different people.

16                   I think that we believe the status quo of  
17 what these facilities accept is about right, but I want to  
18 point out that when we say non-putrescible, nonhazardous  
19 industrial wastes, that is what distinguishes these  
20 facilities from ordinary MSW facilities because we don't  
21 take trash, we don't take putrescible waste, we don't  
22 create -- take waste as staff said in the report. We  
23 don't create vector problems or gas problems or what have  
24 you. So when I see in the staff report that sewage sludge  
25 is likely to be excluded or some other category that is

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1 actually now has been taken historically, deactivated  
2 sewage sludge, and that's an issue with the County and we  
3 understand that. We're just concerned that this not be  
4 predetermined.

5                   We ask that staff be given the opportunity  
6 to look at this, but that we all be given the opportunity  
7 rather than have something be prejudged. All of the  
8 wastes that we take now or have taken, and you take at  
9 Buttonwillow and I believe Chem Waste takes, are within  
10 the gambit of that old MOU. I want to clarify that. We  
11 all relied -- both facilities relied on that MOU for the  
12 last 20 years, and we certainly want to be clear that  
13 we're looking forward and not backward as if there were  
14 some problem, but that MOU did state that group one wastes  
15 were involved.

16                   The only difference is that from our  
17 reading of what group one wastes were, it's a Water Board  
18 term not a Waste Board or a DTSC-type term. It's a Water  
19 Board term. Group one wastes included what are now called  
20 designated wastes, which are nonhazardous but generally  
21 non-putrescible and industrial wastes. So the  
22 contaminated soils that we take from cleanups, those are  
23 from, as far as we know, group one wastes. So we would  
24 certainly thing that a diminimus amount of non-group one  
25 wastes would be correct, but what we're taking now are

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1 group one wastes.

2                   It's just nomenclature, and I understand  
3 that. We don't think that there is any, any level playing  
4 field problem involved. We are cognizant of the fee  
5 implications going forward of this resolution and we will  
6 want to address them in some way during the debate and  
7 during those negotiations, but this is not a make or break  
8 issue for us, but we would say, first of all, no one that  
9 we know -- and I'm addressing Senator Roberti's comments  
10 here.

11                   No one that sends us waste for the last  
12 seven or eight years where we've tracked it has had a  
13 waste that had previously been part of the baseline.  
14 These are all wastes that have generally gone to Class I  
15 facilities because no one else would take them and people  
16 were scared to send them some other place. Number two,  
17 the cost of bringing it to us is sufficient -- believe me.  
18 It's not the \$1.34 that governs whether they come to us or  
19 not. The costs are much higher. In Imperial County, just  
20 for the record, we do pay a 10 percent gross receipts tax  
21 on the nonhazardous. So the County is getting money or  
22 has historically gotten money from those nonhazardous  
23 wastes.

24                   So with regard to the quantity issue and  
25 the tier issue, we certainly have a view with regard to

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1 the tier which is to say that we don't think that the  
2 additional oversight of operations included in the  
3 standardized permit tier is appropriate. We're willing to  
4 discuss that going forward if this resolution is adopted  
5 and we certainly expect to discuss quantity issues and  
6 definitional issues of what's included, but we do come  
7 back to the bedrock issue that environmental protection is  
8 being served now and we believe, and have been convinced  
9 by this Board and this staff, that there is a purpose to  
10 be served in having a reporting relationship, the kind  
11 that's involved in a registration tier, to this Board,  
12 that this Board has a role in looking at what waste goes  
13 where and we fully intend to participate in this process.

14 So we appreciate very much the staff's  
15 recommendation of Resolution 2000-97. We're in agreement  
16 with it. I only wanted to state our caveats for the  
17 record because we certainly have an interest in this  
18 proceeding.

19 Thank you very much.

20 CHAIRMAN EATON: Thank you. Any questions  
21 of Mr. Weiner? Thank you. Chuck White, Waste Management.

22 MR. WHITE: Thank you, Mr. Chairman,  
23 Members of the Board. Chuck White with Waste Management.  
24 Chemical Waste Management is a wholly-owned subsidiary of  
25 Waste Management and is the owner of the Kettleman Hills

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1 facility.

2                   We've been somewhat absent, I guess, from  
3 many of the discussions that have gone on with  
4 Safety-Kleen, although we have been watching it with  
5 interest, and we are looking forward to this issue being  
6 resolved and moving forward. Like Mr. Weiner said, we  
7 were interested in looking at this in a go-forward  
8 approach.

9                   The Kettleman Hills facility has received  
10 mostly hazardous waste since it first started operating in  
11 1979, although occasionally we have a customer approach us  
12 that wishes to have their waste, maybe solid and  
13 nonhazardous industrial waste, managed in a Class I cell.  
14 It's generally for one or two reasons.

15                   One, they like the added security of a  
16 Class I cell, even though it may cost a little more in  
17 putting into a double-lined facility and various  
18 acceptance procedures that the waste be subject to. Some  
19 customers prefer that added level of security.

20                   An example would be some years ago we  
21 received some old disk drives that a computer manufacturer  
22 did not want to have either recycled or salvaged or  
23 scavenged or put into a less secure municipal landfill.  
24 They chose to pay the extra price to put it into a Class I  
25 facility because they didn't want to have anybody looking

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1 at their disk drives. That's one example.

2 Another example would be the liability  
3 issue. There's a number of nonhazardous wastes out there  
4 that look like a hazardous waste. They exceed hazardous  
5 waste regulatory levels, but they're eligible for an  
6 exemption from being regulated as a hazardous waste.  
7 Those generators would like to see those kinds of wastes  
8 managed in a Class I facility because at some point in  
9 time in the future that exemption might go away and they  
10 would prefer to have that waste already disposed of in a  
11 safe Class I facility rather than out elsewhere.

12 Those are typically the two kinds of cases  
13 that we would be receiving, these types of nonhazardous  
14 industrial waste in a Class I cell. We are a heavily  
15 regulated facility at Kettleman Hills. It is an expensive  
16 facility to run and maintain and maintain that level of  
17 compliance. So as Mr. Weiner indicated, we don't view of  
18 it being a level playing field issue. It's generally more  
19 expensive to send your waste to a Class I facility because  
20 of the reasons I mentioned.

21 The facility which started in 1979 is also  
22 aware of the law that was passed in 1979. That basically  
23 is the law that's in the Health and Safety Code section  
24 that Mr. Bledsoe mentioned, but that same year there was  
25 this MOU passed by the agencies after the effective date

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1 of that legislation. And the facility, in good faith, has  
2 always looked upon that MOU as being clarifying of the  
3 legislation that had already gone into effect. That is,  
4 the agencies got together and made a determination that  
5 they believe the best way to regulate this kind of  
6 facility was through a full-blown hazardous waste facility  
7 permit and that other types of permits are not necessary.

8                   To our knowledge, that 1979 MOU has never  
9 been amended or rescinded by the executing agencies or  
10 their successors, which would include this Board. We have  
11 recognized that there is a growing need for -- in the  
12 south central valley for industrial waste disposal. We  
13 actually have converted a Class I cell that Mr. Bledsoe  
14 mentioned to a Class II cell. It is fully permitted at  
15 this Board, and for the most part industrial waste and  
16 municipal solid waste would be disposed of in that Class  
17 II, although we will also continue to operate the Class I  
18 hazardous waste cell and we would like to be able to  
19 provide that cell to customers who desire to have their  
20 nonhazardous industrial waste managed in that more secure  
21 and isolated configuration.

22                   We fully support the Board going ahead with  
23 the registration permit developing regulations. We  
24 believe that a registration tier permit is probably the  
25 appropriate level of regulation. We would encourage you

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1 to provide direction to the staff to move in that  
2 direction, if you so desire. We would like to work with  
3 the staff as these emergency regulations are developed.

4                   The one issue that is a bit of concern, and  
5 as was mentioned by Mr. Weiner as well, is this narrowly  
6 defined category of industrial, non-putrescible solid  
7 waste, and the question would be how do you ensure that  
8 you've captured all of the waste in a list that would be  
9 suitable for bringing to that facility.

10                   We would be concerned that we would  
11 inadvertently leave something off that list and then it  
12 would pop up as a desire of a customer to take it and to  
13 manage it, and if it's not on that list specifically we  
14 wouldn't be able to take it. We would have to go back and  
15 do an amendment to either the regulations or to the  
16 registration permit. An example is disk drives, for  
17 example, that I mentioned earlier. What if disk drives  
18 are not on that list and some customer wants to see their  
19 highly sensitive, technical waste put into that Class I  
20 facility and disk drives aren't specifically on that list.

21                   So we don't object to a reasonably defined  
22 list of wastes. We just want to make sure that it is  
23 sufficiently to be able to provide some flexibility in  
24 bringing these kinds of nonhazardous industrial waste into  
25 a secure facility as a customer may desire.

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1                   But anyway, the bottom line is we would  
2 like to work with you. We would like to see the  
3 regulation move forward, and we believe a registration  
4 tier would be a suitable tier for this kind of operation,  
5 if so you desire.

6                   Thank you.

7                   CHAIRMAN EATON: Thank you. Any questions  
8 of Mr. White?

9                   BOARD MEMBER JONES: Mr. Chairman.

10                  CHAIRMAN EATON: Mr. Jones.

11                  BOARD MEMBER JONES: Just one, and I don't  
12 care if Chuck answers this or Mr. Weiner, but I think the  
13 registration tier is probably appropriate and gets you  
14 guys where you want to go, but our registration tiers  
15 typically don't allow LEAs to put on conditions. One of  
16 the conditions that is pretty much consistent through most  
17 permits is that the LEA can get a report, and whatever  
18 they think the proper incremental time would be -- once a  
19 quarter, once every six months, once every year -- of the  
20 types of delivery vehicles, the number of trips, the  
21 material that came in. Rather than -- to define the waste  
22 under a registration tier and exclude something doesn't  
23 serve your purpose.

24                  A full Solid Waste Facility Permit  
25 obviously may be more -- may be a redundant environmental

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1 protection, but the LEA needs to be able to go into a  
2 facility and say okay, what kind of trips do we have, what  
3 kind of material is coming in, whatever the LEA thinks is  
4 appropriate to make sure -- not from an environmental  
5 protection side but from the CEQA and the other issues  
6 that the LEA has to deal with.

7 Under the registration tier, the ones that  
8 have gone forward to date may not include those types of  
9 things. You guys, is that a condition that you think is  
10 important to giving LEAs and the Board the type of  
11 information they need and would be consistent with  
12 inclusion into a registration tier?

13 MR. WHITE: We would not have any concern  
14 about reporting the kinds of waste we're bringing in. In  
15 fact, that's exactly the kind of relationship we have  
16 right now. There isn't anything that we hide from Kings  
17 County. They know whatever waste, hazardous waste --

18 BOARD MEMBER JONES: And I'm not saying  
19 hiding, Chuck. You know that.

20 (Laughter)

21 MR. WHITE: We're fully open. There's no  
22 problem there at all. It's basically -- all it would be  
23 would be a continuation and a verification of our existing  
24 procedures.

25 BOARD MEMBER JONES: Right. Trips and --

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1                   MR. WHITE: So no, we wouldn't have any  
2 problem.

3                   MR. WEINER: If I could just answer for  
4 Safety-Kleen. I don't think we have any concern about  
5 reporting conditions. Operating conditions are a little  
6 different, and that's the kind of line we draw. But we're  
7 fully in concurrence that LEAs may need reports of various  
8 sorts and we don't mind that in the registration tier.

9                   BOARD MEMBER JONES: Okay. I'm trying to  
10 keep the integrity of the registration tier, which is  
11 flexible to a point, but I want to assure that Mr. Quick  
12 and others have what they think they need so that you can  
13 take disks in at that facility and not be precluded but  
14 still give him the opportunity to do his job. I'm  
15 wondering does that make sense, Mr. Quick, or is that  
16 overkill? You're an LEA.

17                  MR. QUICK: It might be overkill when it's  
18 all over with, but not at the present time.

19                  BOARD MEMBER JONES: That's fair. If it's  
20 too much, we could fix it.

21                  MR. WEINER: But we can't tell him where  
22 the disk drives are.

23                  BOARD MEMBER JONES: There you go.

24                  (Laughter)

25                  CHAIRMAN EATON: With that answer, I can

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1 see why the appeal came forward.

2 (Laughter)

3 MR. WHITE: One more comment. Mr. Jones, I  
4 think you were asking about the quantity of waste, and I'm  
5 not sure why you didn't get a more specific answer but  
6 maybe because it's difficult to get a more specific answer  
7 in the sense that the amount of tonnage of nonhazardous  
8 waste in going to a Class I cell at Kettleman is very  
9 tremendously -- it's really an event-based type of  
10 business. There isn't any ongoing waste stream going into  
11 this. It's typically been about 5 to 10 percent of the  
12 total tonnage.

13 The tonnage at Kettleman, hazardous waste  
14 tonnage, has ranged anywhere from about 150,000 tons a  
15 year to 600,000 tons a year total waste, so if you can  
16 imagine 10 percent of that. The only exception to that  
17 was this last year when there was this mining waste. It  
18 was brought into the facility. Actually, it fails the  
19 hazardous waste criteria, but it is exempt through a bevel  
20 amendment and so there was a very large quantity of that  
21 brought in and so I think the tonnage of that this past  
22 year was about 50,000 tons. But it's kind of a unique  
23 category.

24 So I'm a little concerned about putting any  
25 hard and fast tonnage limits because of the fluctuating

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1 nature, and we would be certainly happy with reporting and  
2 telling jurisdictions, the LEA, the Board what the amount  
3 is, but putting a cap on that would somehow constrain the  
4 operations for something like a bevel exempt but otherwise  
5 looks like a hazardous waste, would that be really serving  
6 the public interest to preclude that from the facility  
7 because it might have a cap. I'm just worried about fully  
8 anticipating the configurations of an event-based  
9 business, which really is what we're talking about.

10 BOARD MEMBER JONES: I wasn't trying to put  
11 a cap. What I was trying to do was get a sense of how,  
12 especially with the idea that two LEAs didn't think there  
13 was an issue and one did, and when you look at the  
14 tonnages and you look at the statute and the MOU, I worry  
15 about it from the standpoint of equal playing. You know  
16 my thing has always been keep it a level playing field.

17 When the RSU came forward and a lot of that  
18 material was going to leave your facilities and go  
19 somewhere else, that didn't make any sense either. If you  
20 remember, I wanted -- we all tried to make sure it was  
21 fair and equitable. So it may not be a tonnage cap, it  
22 may not be any of those things, but at some point if it is  
23 -- you know, when we see a -- when I see a thing that says  
24 "contaminated C&D", define "contaminated" because that's  
25 the problem, and it's with those kinds of terms that

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1 materials that could go to two or three all of a sudden  
2 have to go to one is where I have a real problem because  
3 of the definition. You know regulations are part of  
4 negotiations, but, you know, you guys are awfully good  
5 negotiators. I want to make sure it stays fair.

6 (Laughter)

7 MR. WHITE: And we appreciate the  
8 opportunity to negotiate with you.

9 Thank you.

10 CHAIRMAN EATON: The final speaker on this  
11 item is Evan Edgar, CRRC.

12 MR. EDGAR: Good afternoon, Chairman and  
13 Board Members. My name is Evan Edgar, Edgar and  
14 Associates, on behalf of the California Refuse Removal  
15 Council's landfills group. We still have landfills at  
16 CRRC.

17 I'd like to go on a go-forward approach.  
18 Go-forward, Inc. would have been here today, but they  
19 couldn't make it. They are part of the CRRC landfill  
20 group as well.

21 I'm here to support staff recommendations  
22 to place this waste into a registration solid waste permit  
23 or above. As you know, the registration Solid Waste  
24 Facility Permit typically does have caps. For composting,  
25 it's 10,000 cubic yards. So when you do talk about

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1 registration of Solid Waste Facilities Permits, I believe  
2 there's some level of cap that could be placed.

3                   What I have a problem with is some of the  
4 definitions here as well. I believe that the disposal of  
5 nonhazardous, non-designated waste that has the potential  
6 to be recycled and should be recycled and is being  
7 disposed of in a Class I, Class II, Class III, it should  
8 count as disposal. And by default here, it could be  
9 counted as diversion in today's world. So some of this  
10 non-designated, nonhazardous contaminated C&D or some of  
11 this treatable, contaminated soils could be going to Class  
12 I facilities as disposal and it's diversion by default.

13                   So I think the staff is on the right track  
14 here by putting in under some type of Solid Waste Facility  
15 Permit so it counts as disposal, it should be disposal,  
16 and it does level the playing field. It does create the  
17 opportunity for the people I represent to recycle  
18 nonhazardous C&D and contaminated soils, and should  
19 disposal still occur, then it counts as disposal, it pays  
20 a fee, it has a permit. That is leveling the playing  
21 field and creating the recycling opportunities that my  
22 businesses I represent need to have.

23                   Thank you.

24                   CHAIRMAN EATON: Any questions of  
25 Mr. Edgar? Thank you, Mr. Edgar.

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1                   BOARD MEMBER JONES: Mr. Chairman.

2                   CHAIRMAN EATON: Mr. Jones.

3                   BOARD MEMBER PENNINGTON: I just wanted to  
4 say one thing, Mr. Chairman. I'm going to support Item  
5 36, Resolution 2000-97. However, there's one issue that  
6 concerns me. The companies operating these three Class I  
7 facilities in the state, say they have been operating and  
8 relying on the terms of a 1997 memorandum of understanding  
9 between the precursors to the Board, the Water Board and  
10 Toxics, and I'm not aware of any action taken by any of  
11 these agencies or successor agencies to clarify, modify or  
12 terminate this understanding. I would like it clearly  
13 stated that we are undertaking a different direction in  
14 regulations of these wastes and that this action is  
15 neutral to the validity of the past regulations or under  
16 the MOU so that these people have been relying on this,  
17 and I think we need to at least recognize that they have  
18 been relying on it.

19                  CHAIRMAN EATON: I normally wouldn't have a  
20 problem. I think it brings in extraneous issues that  
21 really don't -- that issue is not before us. I have had  
22 the same conversations with those gentlemen with the MOU.  
23 I don't think the Board should really even comment on that  
24 because we have not taken any kind of enforcement action,  
25 we have not taken any kind of action. I think it's

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1 overreaching, quite frankly, to bring it into this  
2 discussion because this discussion really involves just us  
3 to proceed forward.

4                   We have never, ever indicated that the MOU  
5 was valid. There's a legitimate legal dispute about that  
6 MOU, and that was one of the issues raised. I think if  
7 we're just silent, things continue in the status quo, and  
8 thus far I think the status quo has been sufficient, if  
9 I'm not mistaken, but I'll let those gentlemen speak on  
10 it.

11                   I just think for that, the very issues that  
12 they raised, legal issues with regard to the MOU and the  
13 contentions of our own staff, I think to make that  
14 statement actually is contrary to where we want to move.  
15 I think the resolution is silent on that and that that's  
16 sufficient. Now, the regulations will take care of all of  
17 that, I believe, and at least that was my indication with  
18 the conversations I had. So let's start from a clean  
19 slate. Let's not start from one where someone seems to  
20 have an edge, not only from a legal standpoint but from a  
21 negotiation standpoint, should we get there.

22                   BOARD MEMBER PENNINGTON: I don't have any  
23 problem starting from a clean slate, I just want to be  
24 sure that we don't go back to it.

25                   CHAIRMAN EATON: I think that will be

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1 determined by the regulations. The regulations will  
2 determine whether or not any of the past practices are  
3 there. I don't think we've taken any enforcement action  
4 that I'm aware of, have we, against any of these  
5 facilities? But I think the resolution speaks for itself  
6 and anything else is completely outside the bounds.

7 BOARD MEMBER JONES: Mr. Chairman.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: I would like to move  
10 adoption of Resolution Number 2000-97, consideration of  
11 directing staff to draft emergency -- Mr. Chairman.

12 CHAIRMAN EATON: Yes.

13 BOARD MEMBER JONES: I want to ask a  
14 question. Are we talking draft emergency regulations?  
15 Okay -- draft emergency regulations placing certain  
16 nonhazardous wastes into the regulatory tier.

17 BOARD MEMBER PENNINGTON: Second.

18 CHAIRMAN EATON: Mr. Jones moves and  
19 Mr. Pennington seconds --

20 BOARD MEMBER MOULTON-PATTERSON: Second.

21 CHAIRMAN EATON: I think I heard two  
22 seconds. I think my ears are going bad.

23 Mr. Jones moves and Mr. Pennington seconds  
24 that we adopt Resolution 2000-97.

25 Madam Secretary, would you please call the

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1 roll.

2 BOARD MEMBER JONES: And add the word  
3 "emergency".

4 CHAIRMAN EATON: And add the word  
5 "emergency" to the title of the resolution.

6 BOARD SECRETARY: Board Members Jones.

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY: Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: Aye.

10 BOARD SECRETARY: Pennington.

11 BOARD MEMBER PENNINGTON: Aye.

12 BOARD SECRETARY: Roberti.

13 BOARD MEMBER ROBERTI: Aye.

14 BOARD SECRETARY: Chairman Eaton.

15 CHAIRMAN EATON: Aye. And I would just  
16 like to thank the staff and also the County of Imperial,  
17 as well as Mr. Weiner's client, for trying to come to this  
18 resolution and hopefully we'll be able to resolve it in a  
19 quick fashion and to the satisfaction of all the parties,  
20 including those who have other facilities. Thank you.

21 Item Number 48.

22 MR. FRITH: Good afternoon, Mr. Chairman  
23 and Members of the Board. John Frith of the Public  
24 Affairs Office, and it's our privilege to come before you  
25 today with the Board's first public relations contract in

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1 probably about eight years. We're here to present Item  
2 47.

3 I will provide you with an overview of the  
4 broader publication effort along with possible avenues  
5 upon which you may wish to proceed. I want to stress that  
6 what we're asking for today is your input and your  
7 direction in what areas to focus on as far as this effort.  
8 Chris Peck will outline what the actual contract would  
9 provide and Roni Java is here to answer any questions you  
10 may have about how the Board's sponsorship program may  
11 dovetail with this effort.

12 Our hope today is that you'll approve a  
13 scope of work in order to get the RFP process rolling. We  
14 need to select a recommended proposal and bring an actual  
15 contract back to the Board by June at the latest in order  
16 to encumber the funds this fiscal year. And this is the  
17 first time I've used Power Point, so bear with me, please.

18 First, the background. The \$750,000  
19 contract concept was approved by the Board in San Luis  
20 Obispo in October. The PR contract would promote  
21 Board-wide efforts. We are here to present some options  
22 and ideas to kind of start the discussion, if you will,  
23 amongst the Board on directions to proceed in and, as I  
24 say, to seek the Board's discussion, deliberation and  
25 direction.

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1                   Why do we need to do anything? Well, first  
2 of all, of course, it is the year 2000. It is the year  
3 that the AB 939 mandate goes into effect for the 50  
4 percent reduction. According to the AB 939 report you  
5 discussed yesterday, a majority of local jurisdictions are  
6 expected to file for SB 1066. Clearly there is a lack of  
7 knowledge in some segments of the population in  
8 California, and anything we could do to increase that  
9 knowledge and awareness would be beneficial. And then  
10 finally one issue that was very made very clear as part of  
11 the 21st century initiative effort last winter was that  
12 public local governments do strongly support the idea of a  
13 statewide public education effort.

14                   So possible outcomes, any number of  
15 possible outcomes. These are just a few. One would be to  
16 motivate the public to recommit to waste diversion while  
17 educating them about the accomplishments so far, the  
18 importance of recycling, how and what to buy recycled.  
19 For example, on a buy recycle campaign, we could work to  
20 increase support for products made from recycled materials  
21 and its recycle campaign, for example, an idea that came  
22 to me about four cups of coffee yesterday.

23                   We could work on increasing business  
24 recycling. Our research and conversations with local  
25 officials indicates that is a key obstacle to getting to

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1 50 percent for many local jurisdictions. We could ensure  
2 that the administration and the legislature are fully  
3 aware of state and local efforts and accomplishments in a  
4 cooperative effort with the Division of Planning and Local  
5 Assistance and, of course, Board offices. And finally, to  
6 ensure that there is very strong two-way communication  
7 between the Board and local officials on key 939 related  
8 issues this year.

9                   How do we get there? Well, we need a  
10 theme. Ideally that would be part of the PR contractor's  
11 responsibility, but as we'll get to in a few moments, that  
12 process probably won't get underway after the contract is  
13 actually awarded until the summer or perhaps as long as  
14 the early fall, and we're concerned about waiting until  
15 that length of time to move forward. So we are including  
16 some staff generated themes and, believe me, other  
17 suggestions are welcome. I'll run a few of them by you  
18 here.

19                   "Make every day earth day," it's old, but  
20 effective. "Don't let California go to waste", "Waste  
21 not, California". Senator Roberti had asked us  
22 specifically that we try to come up with some ideas that  
23 didn't have the word "recycle" because of the fact that so  
24 many of the Board's efforts do transcend mere recycling,  
25 but we still input some, anyway. "Recycle: Once is never

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1 enough", "It's better the second time around, buy  
2 recycle", "A great idea for a whole new millenium", "Once  
3 is not enough", "California wants you", much as the  
4 Governor said, "To recycle", and "Come on, California. Do  
5 it again", and "When you buy recycle, it's twice as nice".  
6 Like I say, suggestions are welcome.

7                   What we are envisioning is a multi-pronged  
8 effort. Regardless of the themes and goals you direct us  
9 to pursue, we recognize that there's a wide variety of  
10 activities that we can do in-house as well as a paid PR  
11 contract. In-house, of course, we would focus on the  
12 issues you direct us to pursue. We would continue efforts  
13 in other key priority areas such as grasscycling and  
14 composting, the buy recycle effort, state responsibility,  
15 sustainability, tires, and education but would focus on  
16 the main priorities.

17                   How we would go about that? A variety of  
18 ways including Board Member participation in editorial  
19 boards and public affairs shows interviews, press  
20 releases, events, the usual things there, as well as our  
21 California Heartland contract that the Board recently  
22 awarded. Increased outreach to state local officials  
23 would also be an in-house responsibility.

24                   And then finally, a paid PR and advertising  
25 campaign to more fully publicize the Board's priorities.

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1 That would go to the general public through such means as  
2 earned media, production of collateral material, PSAs and  
3 the like. Then targeted audiences, if you select any,  
4 such as the business community, apartment owners and  
5 residents, the buy recycle message and so forth.

6                   Anyway, Chris Peck is now here to walk you  
7 through the contract proposal per se.

8                   MR. PECK: Thank you, John. Good  
9 afternoon, Board Members.

10                   What I wanted to do is take a minute to  
11 walk quickly through the draft scope of work that's in the  
12 packet. Actually you, I believe, should have a copy of  
13 the scope of work which would be attachment one revised.  
14 It looks like this.

15                   We have left the top of it where we talk  
16 about the desired outcomes open. John has suggested some  
17 possible outcomes. We are going to be seeking direction  
18 from you on what you would really like to see coming out  
19 of the expenditure of this contract money with respect to  
20 outcomes and target audiences.

21                   For the sake of discussion, just to recap,  
22 the Board approved in October \$750,000 for this contract  
23 concept. \$600,000 of this basically is for the public  
24 awareness campaign, and \$150,000 is for the sponsorship.  
25 So when we talk about all the tasks except for the last

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1 one, we're talking about a budget right now of \$600,000.

2 Task one is earned media, news releases at  
3 events, opinion and editorial coverage, radio and  
4 television talk show appearances, public service  
5 announcements, which we've lumped with earned media  
6 because we're not paying for it. We're talking about paid  
7 advertising separately as another task and other  
8 activities that would be recommended by the contractor.

9 Within the earned media -- thank you, John  
10 -- within earned media activities, as well as the outreach  
11 efforts, we would be anticipating that Board Members and  
12 staff and key opinion leaders from local government,  
13 business and non-profit organizations would be involved in  
14 those kinds of activities with respect to making  
15 appearances and speeches.

16 The average programs would be appropriate  
17 to reach the target audience as recommended by the  
18 contractor. That is we would conduct outreach activities  
19 depending upon the type of preferred outcome of the Board  
20 and target audience. I have in mind an example with  
21 respect to outreach versus paid advertising. For example,  
22 if we wanted to do a general education program focusing  
23 on, let's say, buy recycle, then paid advertising would  
24 likely be an appropriate component of a campaign trying to  
25 accomplish that end. If, on the other hand, we were

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1 focusing on business recycling programs and trying to make  
2 avenues to increases in business recycling, we probably  
3 would be relying more on outreach, just using pure  
4 contact, than we would on paid advertising. So without  
5 knowing where the Board wants to go yet or what the  
6 specific target audiences are, it's difficult to say how  
7 those tasks and budget would break out.

8                   As I said, paid advertising under task  
9 three would be appropriate depending upon the desired  
10 outcomes and target audiences. If we decide to do paid  
11 advertising, it's staff's opinion that there are budget  
12 implications. That is that if we want to spend money on  
13 radio advertising, we need to think carefully about what  
14 else we want to accomplish with the money because we could  
15 spend \$400,000 in a month of radio advertising just in the  
16 four major markets.

17                   Task four, partnerships. Partnerships  
18 would be developed under the contract by the contractor  
19 with what we would term warm leads from the Board and  
20 staff, both in local government and the private sector.  
21 This would allow us to leverage the campaign budget for  
22 both the advertising as well as outreach activities.

23                   Task five, program measurement, is very  
24 important. The statute specifically requires the Board to  
25 do -- to benchmark and track the effectiveness of its

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1 public awareness campaign expenditures using appropriate  
2 research. As currently drafted, we left the term -- the  
3 specific word "research" out because depending on how much  
4 money is available, we may not have the opportunity to do  
5 in-depth research, but there would be other benchmarks  
6 that would be possible to be taken.

7                   Lastly, task six, the public education  
8 sponsorships. This is the \$150,000 which was allocated by  
9 the Board. This would be different from the way that the  
10 Board has done sponsorships in years past in that our  
11 public relations agency would essentially be the general  
12 contractor and the sponsorship recipients would be  
13 subcontracted to the Board. The general contractor would  
14 act to develop, with input from the Board, criteria for  
15 screening applications. They would solicit proposals,  
16 review and evaluate proposals, score them, and bring  
17 funding recommendations to the Board, then the Board would  
18 have the ability to approve or disapprove the  
19 subcontractors.

20                   We've laid out, based upon anticipated  
21 approval of the scope of work today, a time line that  
22 would get us to an award of the contract at the May  
23 meeting. There is some flexibility in here. We have  
24 quite a good period of time for proposal evaluation,  
25 interviews and site visits. That could be compacted

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1 somewhat, and we do anticipate we could be completing an  
2 evaluation process up to shortly before the Board meeting.  
3 So it's possible we could rollover to a June Board date,  
4 but a May Board date would be much more comfortable  
5 because of year-end closure and that kind of stuff and  
6 would give us time to actually encumber the money through  
7 a contract.

8                   What we're asking for the Board to do today  
9 is to give us direction on the scope of work; that is,  
10 those key outcomes and target audiences that the Board  
11 believes are the most important. We want you to think  
12 about and give us some direction on your sense of the  
13 importance of paid advertising versus public relations  
14 activities.

15                   If you do want to do paid advertising,  
16 we're asking that you think about how much money you want  
17 to put into paid advertising and we can give you some  
18 ideas if you have questions about certain kinds of  
19 advertising costs, but we would need to identify where  
20 that money would come from, whether it would be later this  
21 year to a year-end sweep or through contract funding from  
22 next year. The important point there is if we wanted to  
23 include money for advertising and wanted to put more money  
24 in, we need to include that as not to exceed in the RFP  
25 and in the contract so that we don't have to go back and

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1 issue a new contract, to go through this process again to  
2 expend those monies.

3                   So again, we're seeking your discussion and  
4 deliberation and direction on these issues. Thank you and  
5 we'll be happy to answer questions.

6                   BOARD MEMBER ROBERTI: Mr. Chairman.

7                   CHAIRMAN EATON: Senator Roberti.

8                   BOARD MEMBER ROBERTI: Just very briefly.

9 Since we have limited funds, my own recommendation would  
10 be -- and parenthetically, none of us know absolutely what  
11 will work -- my own recommendation would be that we sort  
12 of vary our focus to one or two items and stress those  
13 things. I don't have any strong feelings what they would  
14 be, but I wouldn't want to publish the whole work of the  
15 Board because it's going to get kind of lost. So I would  
16 stress one and two items to sort of grab the public and  
17 hopefully let the world know that we do more than count  
18 Q-tips.

19                   CHAIRMAN EATON: I've heard that.

20                   BOARD MEMBER ROBERTI: Yes. We do that,  
21 too.

22                   BOARD MEMBER JONES: Mr. Chairman.

23                   CHAIRMAN EATON: So -- I didn't know if you  
24 were finished.

25                   BOARD MEMBER ROBERTI: That's it. That's

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1 fine.

2 BOARD MEMBER JONES: I just saw him go  
3 back. That's why.

4 Mr. Chairman.

5 CHAIRMAN EATON: Mr. Jones.

6 BOARD MEMBER JONES: I want to concur with  
7 Senator Roberti. I think it is absolutely critical that  
8 we target a campaign. I would like to offer a little bit  
9 of direction. I think this Board has been incredibly  
10 successful in implementing regulations, working in  
11 partnerships with all the stakeholders, identifying  
12 problems.

13 We know that in our AB 939 report that  
14 we've gone from 2,000 programs in all the local  
15 jurisdictions to over 7,000 in all the jurisdictions. We  
16 hear people come in for biennial reviews and there is one  
17 component that is always talked about, and that is there  
18 are no markets. It affects our ability to afford  
19 programs, and that's absolutely the one piece that we have  
20 not been able to fulfill. That's why we are so involved  
21 in America Recycles. That's why we're so involved in the  
22 Chairman's huge push within government agencies. That's  
23 why we have to have markets.

24 The one key to that, though, is today we  
25 were talking about the commercial waste stream in some

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1 jurisdictions. That's the one you get.

2                   You can do a -- what we haven't done  
3 successfully, I don't think, is tied putting a bottle, a  
4 can or a newspaper at the curb into what that material  
5 gets used as in its second use and third use. We never  
6 tie that when you throw out a bunch of beer cans to be  
7 recycled, they come back in four weeks as beer cans, a  
8 hundred percent recycled content. Toilet paper, just a  
9 myriad of products that are in the stores that people  
10 never know are made with recycled content.

11                   If we did a targeted media campaign that  
12 talked about the issue of putting it at the curb, where  
13 does it go, this is where it ends up, buy recycle, not  
14 just close the loop, but if --

15                   BOARD MEMBER ROBERTI: I don't know what  
16 close the loop means. It's a nice phrase for us.

17                   BOARD MEMBER JONES: It's a nice phrase for  
18 us, but they don't know -- when Ms. Moulton-Patterson had  
19 to raise rates in Huntington Beach to pay for those  
20 things, to pay for those, the curbside and the rest of  
21 those programs, if the material --

22                   CHAIRMAN EATON: Opposition research is not  
23 part --

24                   (Laughter)

25                   BOARD MEMBER JONES: I applauded her

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1 effort. What, are you kidding me?

2 (Laughter)

3 BOARD MEMBER JONES: But you know what I  
4 mean? If market demand for that material was there, the  
5 material wouldn't go up huge in value but there would be  
6 markets for it. There would be a demand for that  
7 material. Consequently, the costs of those operating  
8 programs in businesses and residences goes down, and that  
9 is the bottom line here.

10 We have such an opportunity because under  
11 the sponsorship part of this, I was actually going to make  
12 a suggestion that since I've been the state co-chair for  
13 two years of California's America Recycles Day, how the  
14 Board might feel about us trying to draft one of the other  
15 Board Members, and I mean -- I'm thinking that Board  
16 Member Linda Moulton-Patterson would be perfect for this  
17 job -- but that's up for discussion, because that's a  
18 partnership between the Board and SWANA, but the reason I  
19 bring it up is through America Recycles Day, the National  
20 Defense Fund puts out thousands and \$7 million worth of  
21 advertising about America Recycles Day and buying  
22 recycled.

23 So why not leverage our \$700,000 or  
24 \$600,000 in real spots for us; not identifying ARD, but  
25 real buy recycle spots for us that are reinforced between

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1 midnight and 6:00 in the morning, somebody's show, with an  
2 EDF thing talking about buying recycled. I just think  
3 it's the most critical point of where we have to go as an  
4 agency.

5 I think that in the report that I saw, you  
6 know, letting the legislature and letting the  
7 administration know about what we do are critical. They  
8 need to be in a communications plan. I think that we have  
9 to make more people aware, but I think too much money  
10 effort has been expended for us not to take advantage of a  
11 targeted campaign that not only includes the things we've  
12 talked about here today, but really pushing buy recycle.

13 If you notice, when we got the  
14 presentation, and the presentation was a good  
15 presentation, but as all the issues went through, it was  
16 we need to talk about where we are in diversion, where we  
17 are here, where we are here, what we're doing here, the  
18 buy recycle. It was down at the bottom of the list. So  
19 our own actions are indicative of why this thing ain't  
20 working. It needs to be at the top of the list.

21 So that's where I'd like to see this  
22 targeted, plus I would like people to consider one of our  
23 fellow Board Members to take my job. I had two years of  
24 commuting and I didn't see any volunteers last year when I  
25 asked that somebody else take it.

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1                   BOARD MEMBER PENNINGTON: But you do such a  
2 good job.

3                   BOARD MEMBER JONES: I appreciate that.

4                   BOARD MEMBER PENNINGTON: You do.

5                   BOARD MEMBER JONES: Thank you.

6                   CHAIRMAN EATON: Any other questions?  
7 Mr. Frith. Mr. Chandler.

8                   MR. CHANDLER: I'll be quick, but I think  
9 on the heels of leveraging the area of partnerships  
10 referenced, partnerships with industry and local  
11 government, I think, as Chairman Eaton knows and as Board  
12 Member Linda Moulton-Patterson knows, we are currently  
13 sitting on an advisory committee with the Department of  
14 Conservation. If you want to talk about a major program  
15 that's going to be dwarfing whatever we can do and putting  
16 in front of the public a message probably every 30 seconds  
17 on the radio, it's going to be that \$10 million they're  
18 about ready to roll out.

19                   So I would like the contractor to see if we  
20 can work with them and at least get the last five seconds  
21 of their 30-second slot to maybe be your punch line of  
22 markets or however we can find a way to enrich our efforts  
23 on top of their program that they're going to roll out. I  
24 think it's worth considering and certainly I would like to  
25 see the contractor have it in their scope of work to at

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1 least explore that option, so I would add that --

2 BOARD MEMBER PENNINGTON: I certainly  
3 concur with that.

4 BOARD MEMBER JONES: That works for me.

5 CHAIRMAN EATON: Okay. I have one speaker,  
6 Mr. Evan Edgar.

7 MR. EDGAR: Evan Edgar, CRRC. Good  
8 afternoon, Chairman and Board Members. We support Senator  
9 Roberti's idea about the narrow focus. There's a lot of  
10 messages out there in the integrated waste management  
11 field but never a message of buying recycled. It is what  
12 we would recommend as well. We do believe we can parlay  
13 off other resources out there from America Recycles Day  
14 has a big buy recycle push and we are tracking what goes  
15 on at DOC.

16 The biggest opportunity we see out there  
17 has arose with the signing of the Bottle Bill. As  
18 collectors of plastics 3 through 7, we are collecting a  
19 lot of materials, and it's only three weeks into the  
20 program, and we have no markets. With regards to the  
21 other piece of legislation that did not pass last year, SB  
22 1110 by Chesbro, that was something that was supposed to  
23 go hand-in-hand with the Bottle Bill. It didn't work, so  
24 this year we are kind of stranded with regards to a lot of  
25 the plastics out there.

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1                   We would like to have a -- we would  
2 recommend a nice narrow message, parlay off the DOC and  
3 targeting plastics, and I think that would be very  
4 successful and we will support this public awareness  
5 campaign.

6                   Thank you.

7                   CHAIRMAN EATON: Wishes?

8                   BOARD MEMBER JONES: I want to know how  
9 people feel about Linda Moulton-Patterson taking over. I  
10 actually suggested it to our partners at SWANA and they  
11 thought it would probably work if the other Board Members  
12 wanted to do it.

13                  BOARD MEMBER PENNINGTON: The real question  
14 is how does she feel about it.

15                  BOARD MEMBER MOULTON-PATTERSON: I  
16 understand it's close by --

17                  BOARD MEMBER PENNINGTON: We'd love to have  
18 you do that.

19                  BOARD MEMBER MOULTON-PATTERSON: -- but  
20 maybe we have other volunteers.

21                  (Laughter)

22                  BOARD MEMBER ROBERTI: No, no.

23                  CHAIRMAN EATON: I don't see any.

24                  BOARD MEMBER PENNINGTON: I'd volunteer if  
25 it would do me any good.

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1 (Laughter)

2 BOARD MEMBER MOULTON-PATTERSON: No. I  
3 think it would be exciting. I would love to if my  
4 colleagues would support it and if Mr. Jones is ready  
5 to --

6 BOARD MEMBER JONES: Step down.  
7 Absolutely. Absolutely. So I'm just taking that as  
8 everybody nodding; right? Mr. Chairman, I would like --

9 CHAIRMAN EATON: Is this you're going away  
10 speech?

11 BOARD MEMBER JONES: It might be. This  
12 might be my going away speech. You never know. I haven't  
13 heard anything that says he wants me.

14 (Laughter)

15 BOARD MEMBER PENNINGTON: But more  
16 importantly you haven't heard anything that says he  
17 doesn't want you.

18 BOARD MEMBER JONES: That's true. That's  
19 true.

20 Mr. Chairman, I'd like to move adoption of  
21 Resolution 2000-54 with a targeted message relying on one  
22 or two items, buying recycled being primary, contractor  
23 needs to try to leverage through Department of  
24 Conservation our effort because we have a joint effort  
25 there, they need to attempt through the Board Members, and

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1 that it be a buy recycled message. And I think that's it.

2 BOARD MEMBER PENNINGTON: I'll second it.

3 MR. PECK: Before you vote, can I seek a  
4 little clarification? You were talking, Mr. Jones, about  
5 spots by which I assume you meant paid advertising. To do  
6 four weeks of paid radio spots alone in four major media  
7 markets getting 100 points, which Mr. Eaton knows very  
8 well is the minimum that you need to effectively reach  
9 your audience, will cost \$400,000 if you do it through the  
10 California Broadcasters' Association. It will cost about  
11 \$700,000 if you pay retail. Mass media advertising in  
12 this state is very expensive which is why we did suggest  
13 that if the Board was interested in that that you consider  
14 approving a contract up to a certain amount, and then if  
15 the Board decided later to actually fund those spots, then  
16 we would be able to move forward.

17 BOARD MEMBER JONES: I think what -- this  
18 is to put a scope of work for --

19 CHAIRMAN EATON: To put it on the street.

20 BOARD MEMBER JONES: To put it on the  
21 street, to come to us with their best view of a PR media  
22 advertising campaign; correct? So I think that they need  
23 to know that we want to see a buy recycled message, tying  
24 it into the collection so we can deal with those issues,  
25 and then maybe one of the -- and to also look at the

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1 possibilities of working with the Conservation Corps and  
2 based on the menu that they give us and the options that  
3 they give us that we could, in fact, buy advertising and  
4 do this and that, and that seems to be like that would be  
5 another item.

6 First I think what I see here is they need  
7 to develop a proposal that says this Waste Board has a  
8 targeted message, what's the best way to get the message  
9 out, and don't lose sight of the fact that the  
10 Conservation Corps has gazillions of dollars that they are  
11 going to have to put into advertising and maybe there's a  
12 linkage there, but target, let them know it needs to be a  
13 targeted message to buy recycle. Does that work?

14 CHAIRMAN EATON: All right.

15 BOARD MEMBER MOULTON-PATTERSON: You didn't  
16 get a second?

17 CHAIRMAN EATON: Not a second yet.

18 BOARD MEMBER MOULTON-PATTERSON: I'll  
19 second it, but I do have one question of John. On task  
20 four, the contractor shall develop public and private  
21 partnerships to support outreach programs, do they  
22 actually do that? I mean --

23 MR. FRITH: Oh, yeah. That's one of the  
24 more effective ways of a public relations campaign as  
25 opposed to an advertising campaign that you do with

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1 effective folks. I understand the coalitions, but I want  
2 you to understand contractors -- it wouldn't be something  
3 that our staff and our Board Members would be as active as  
4 you wanted to be in that process as well. As Chris  
5 mentions, one of the first stages is warm leads or hot  
6 leads, if you will, where we use our expertise to direct  
7 the contractor. The contractor would be interested in  
8 assistance in this effort so they don't want to start from  
9 square one.

10 BOARD MEMBER MOULTON-PATTERSON: Okay.

11 CHAIRMAN EATON: So Mr. Jones and  
12 Ms. Moulton-Patterson seconds that we adopt Resolution  
13 2000-54 per Mr. Jones's direction with the buy recycled  
14 message.

15 Madam Secretary, please call the roll.

16 BOARD SECRETARY: Board Members Jones.

17 BOARD MEMBER JONES: Aye.

18 BOARD SECRETARY: Moulton-Patterson.

19 BOARD MEMBER MOULTON-PATTERSON: Aye.

20 BOARD SECRETARY: Pennington.

21 BOARD MEMBER PENNINGTON: Aye.

22 BOARD SECRETARY: Roberti.

23 BOARD MEMBER ROBERTI: Aye.

24 BOARD SECRETARY: Chairman Eaton.

25 CHAIRMAN EATON: Aye. We have two items

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1 left. We'll take a short ten-minute break and allow the  
2 court reporter to have some time.

3 (Brief recess taken)

4 CHAIRMAN EATON: Welcome back. Next item,  
5 Item Number 50, consideration of approval of award of  
6 contract for KPMG Peat Marwick, et cetera.

7 MS. PACKARD: Good afternoon, Chairman  
8 Eaton and Board Members. My name is Rubia Packard with  
9 the Policy and Analysis Office and I'm here to present  
10 Agenda Item 50 which, as you just said, is consideration  
11 of approval of award of contract with KPMG Peat Marwick  
12 for Board-wide information profiles system development and  
13 financial analysis, fiscal year 99/00, concepts 44 and 72.  
14 I also have with me John Fitz and Darryl Petker (phonetic)  
15 from the Office of Management Reporting Systems to assist  
16 in the event you have questions about this item.

17 This agenda item presents for Board  
18 consideration the award of a California Multiple Award  
19 Schedules, that's a CMAS contract, for the Board-wide  
20 information profile system development and financial  
21 analysis as specified in the scope of work approved by the  
22 Board yesterday.

23 The contract is intended to provide  
24 assistance and guidance for staff in continuing  
25 development of California waste stream profiles and

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1 development of the Board's overall strategy for a  
2 structure to support a comprehensive knowledge management  
3 foundation. The contract will also assist the Board's  
4 current efforts to use existing and future databases to  
5 provide an accurate, up-to-date and easy-to-use waste  
6 information system.

7                   The scope of work being proposed -- the  
8 scope of work that you approved yesterday and the award  
9 being proposed for approval today will be performed under  
10 a CMAS agreement with KPMG Peat Marwick for an amount not  
11 to exceed \$234,000. The options available to the Board  
12 are to award the contract for \$234,000 to KPMG Peat  
13 Marwick to fulfill the scope of work as described and  
14 adopted yesterday in Agenda Item 49, Resolution 2000-64,  
15 or to not award the contract.

16                   Staff recommendation is that the Board  
17 approve option one and adopt Resolution 2000-65 awarding  
18 the contract to KPMG Peat Marwick. If you have any  
19 questions, we'll be happy to answer.

20                   CHAIRMAN EATON: Any questions?

21                   BOARD MEMBER PENNINGTON: Mr. Chairman.

22                   CHAIRMAN EATON: Mr. Pennington.

23                   BOARD MEMBER PENNINGTON: I'll move  
24 adoption of Resolution 2000-65 to approve the award of a  
25 contract to KPMG Peat Marwick for the worldwide

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1 information profile systems and development -- and  
2 financial analysis.

3 BOARD MEMBER JONES: I'll second.

4 BOARD MEMBER PENNINGTON: Staff  
5 recommendation one or something like that; is that right?

6 CHAIRMAN EATON: Mr. Pennington moves and  
7 Mr. Jones seconds that we adopt Resolution 2000-65. This  
8 is an award of money, so we cannot substitute the roll  
9 call.

10 If you'll call the roll call, Madam  
11 Secretary.

12 BOARD SECRETARY: Board Members Jones.

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY: Moulton-Patterson.

15 BOARD MEMBER MOULTON-PATTERSON: Aye.

16 BOARD SECRETARY: Pennington.

17 BOARD MEMBER PENNINGTON: Aye.

18 BOARD SECRETARY: Roberti.

19 BOARD MEMBER ROBERTI: Aye.

20 BOARD SECRETARY: Chairman Eaton.

21 CHAIRMAN EATON: Aye.

22 MS. PACKARD: Thank you.

23 CHAIRMAN EATON: Item 51, which I believe  
24 is the final item on today's agenda, remaining agenda  
25 item. Madam Secretary, do we have any rolls that need to

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1 be closed at all? So we're all up-to-date.

2 BOARD MEMBER JONES: Mr. Chairman.

3 CHAIRMAN EATON: Mr. Jones. I'm sorry.

4 You need to be recognized.

5 BOARD MEMBER JONES: You're sorry I have to  
6 be recognized?

7 (Laughter)

8 BOARD MEMBER JONES: As is the audience.

9 (Laughter)

10 CHAIRMAN EATON: I don't think I can  
11 prevent that.

12 BOARD MEMBER PENNINGTON: I wouldn't touch  
13 that for a free weekend in Pismo Beach.

14 BOARD MEMBER JONES: Mr. Chairman, in  
15 discussions with Mr. Frith and others on the item that we  
16 had on the targeted PR campaign, I think one thing that --  
17 one of the problems we always fall into is we refer to  
18 materials made of recycled content as materials that are  
19 waste. They aren't waste. They're a secondary and a  
20 tertiary use of the components within a product, and I'd  
21 like to, as part of the direction here, have this scope of  
22 work identify -- we need to spin that differently.

23 We need to get people to start thinking  
24 about it that it's not waste. We had that testimony last  
25 night that he couldn't put plastic in his bottles because

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1 it was waste. So I think that needs to be part of the  
2 scope of work to help support that. I just want to know  
3 how people feel about that, if that makes sense.

4 BOARD MEMBER PENNINGTON: I think that  
5 makes perfect sense.

6 BOARD MEMBER JONES: We're okay? I just --  
7 they just needed the direction and I wanted to make sure  
8 it got clarified. Thanks. Sorry about that.

9 CHAIRMAN EATON: So you'll come back with  
10 the phrase then; right?

11 BOARD MEMBER JONES: No, I won't. Some guy  
12 that works and gets all this money is going to.

13 (Laughter)

14 CHAIRMAN EATON: Last item, Item Number 51.

15 MS. PACKARD: Good afternoon again,  
16 Chairman Eaton and Board Members. My name is Rubia  
17 Packard and I'm here to introduce Agenda Item 51,  
18 consideration of Senate Bill 876 (Escutia) in my acting  
19 capacity over the legislative office.

20 I first of all would like to apologize to  
21 you for the fact that you did not receive the final  
22 analysis until today. There were a number of things going  
23 on with this in this subject area, a lot of potential  
24 changes in the fiscal information, and so we would like to  
25 apologize to you for not receiving it until earlier today.

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1                   The analysis that you have before you,  
2 however, reflects the current status of the discussions on  
3 the fiscal analysis. Pat Chartrand is here today from the  
4 legislative office. She will present this item. Byron  
5 Fitzgerald is here from the Special Waste Division. He  
6 will be here, too, in case you have questions about the  
7 tire program or the tire report, and Lynda Williams from  
8 the Legislative Office is here also in case there are any  
9 questions in that area.

10                   So with that, Pat will present the item.

11                   MS. CHARTRAND: Good afternoon,  
12 Mr. Chairman and Members. I'm Pat Chartrand with the  
13 Board's Legislative and External Affairs Office. I'm here  
14 today to present an analysis of SB 876 by Senator Escutia  
15 as proposed to be amended.

16                   As proposed to be amended, SB 876 would  
17 increase the tire fee from 25 cents per tire to \$2 per  
18 tire and specify how the Board is to expend the revenues  
19 generated by the fee. This would result in an annual  
20 revenue increase of \$35 million, bringing the total  
21 program funding to approximately \$40 million annually.

22                   The bill would also delete the repeal of  
23 the fee on January 1st, 2001. It would provide for a  
24 continuous appropriation of tire fund monies to the Waste  
25 Board and would revise the definition of waste tire. It

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1 would add other definitions designed to provide regulatory  
2 relief for several thousand tire dealers. It would  
3 require the Board to implement by June 30th, 2001 a  
4 revised tire manifest system, and it would make changes to  
5 the waste tire hauler and waste tire facility permit  
6 programs to strengthen enforcement.

7 This concludes my presentation. You know  
8 who's here to help answer questions. It's all yours.

9 CHAIRMAN EATON: Any questions?

10 BOARD MEMBER PENNINGTON: Just --

11 CHAIRMAN EATON: Sure. Mr. Pennington.

12 BOARD MEMBER PENNINGTON: Thank you,  
13 Mr. Chairman. The tire fee will go from 25 cents to \$2,  
14 and did you say that it would change again in 2001?

15 MS. CHARTRAND: No. The way the bill is  
16 written now, I said it would delete the repeal of the fee  
17 on January 1, 2001, which is the current law.

18 BOARD MEMBER PENNINGTON: Okay. So it  
19 would go on.

20 MS. CHARTRAND: Yes.

21 BOARD MEMBER PENNINGTON: Okay.

22 CHAIRMAN EATON: Okay. Hearing none, I  
23 have one speaker, Mr. Terry Leveille.

24 MR. LEVEILLE: Mr. Chairman and Board  
25 Members, Terry Leveille here. I occasionally represent

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1 the Southern California Tire Dealers' Association before  
2 this Board and the legislature. However, at this point  
3 the Southern California Tire Dealers are working with  
4 Senator Escutia.

5                   Their concern is with the -- where the fee  
6 collection is taking place, and they would like to see it  
7 go back to the Department of Motor Vehicles, vehicle  
8 registration. I'm not here to argue that issue. That's  
9 really something with the Executive Director down there  
10 and Senator Escutia, and I don't think that has much of a  
11 hope of changing, but I just thought I would offer some  
12 observations apart from the Tire Dealers' Association,  
13 from my six years watching the tire waste tire issues,  
14 both on the Board working as an advisor to the Board and  
15 as an independent consultant.

16                   I think it's going to be -- and I don't  
17 know how you feel about it, but I think it's going to be a  
18 hard sell, the \$2 fee, particularly when you're looking at  
19 allocating half the money for cleanup, permitting and  
20 enforcement. Right now, as far as I can see -- and your  
21 staff has better figures than I do -- but we're talking  
22 about in the neighborhood of about a million to two  
23 million tires out there that need to be cleaned up.

24                   I know it's an ongoing problem. I know  
25 that tire piles are going to be discovered from time to

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1 time. I know there's some unfinished issues regarding the  
2 Tracy fire and the Filbin fire, but thinking of throwing  
3 \$20 million at a couple million tires is going to be --  
4 we're talking year after year. We're talking a pretty  
5 hard sell there. I would think -- and just off the top of  
6 my head a suggestion is that if you just increase the fee  
7 to say 75 cents, you could allocate about a quarter of  
8 that, which is about \$5 million a year, just to the  
9 cleanup and permitting and enforcement and probably have a  
10 pretty good program.

11 I think the Board's done, despite the fact,  
12 the Board and fires have done a great job on reducing the  
13 number of illegal piles out there, and I'd like to see  
14 down the line obviously that the Board devolving some of  
15 the power of permitting and enforcement to the lower  
16 powers and I think that could be done with a little bit of  
17 an increase in the fee.

18 CHAIRMAN EATON: I can assure you after  
19 this morning's hearing that the Board would probably be in  
20 agreement with you if it had to do with those types of  
21 hearings, because those types of issues -- and I'm not  
22 being facetious, but those types of issues that deal with  
23 local types of issues and deal with planning permits and  
24 those kinds of things are a very appropriate thing. I'm  
25 not being facetious.

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1                   MR. LEVEILLE: Something to really look at,  
2 you know, as -- after this -- and I assume this bill will  
3 pass in one form or another and there is a need for  
4 change, there is a need for correction obviously, but it's  
5 certainly something that should be on a priority of the  
6 special waste unit of figuring out ways to get that kind  
7 of effort down at the local level, and particularly even  
8 cleaning up the tire piles and whether it's through grants  
9 or some other way.

10                   I had a couple of issues on the -- some of  
11 the specifics. On page 9, number 21, you talk about the  
12 increased number of tires that can be transported at any  
13 one time from five to ten. That's a proposal which I  
14 agree with. I think it should be increased to ten, but I  
15 think by law you can only transport four tires. If you go  
16 to five right now, you have to get a waste tire hauler  
17 permit. So I think it's a minor correction in there, but  
18 I may be wrong. As I recall, you can transport four tires  
19 right now without getting a permit.

20                   On that same page, number 24, and I just  
21 had, as you guys had, half an hour to look at this thing,  
22 but I think you should look at the -- when we're talking  
23 about waste tire haulers, as we've seen today's issue, I  
24 think there should be some look at -- whether it's going  
25 to be in this bill or the Cardoza bill -- expanding the

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1 powers of the State so that a hauler who gets a permit  
2 revoked should not be able to haul tires under another  
3 permit, another registration permit, whether that permit  
4 is his sister or his mother or something like that. Right  
5 now that's a problem. I think that's something, as I say,  
6 if this goes into the Cardoza bill, it certainly should be  
7 dealt with there and working with your Legal Office to try  
8 and figure out some way that that kind of loophole in the  
9 law can be closed.

10 I think there also needs to be -- one of  
11 the issues that I still am a little bit confused about is  
12 if you are -- if a person like Mr. Ball starts a civil  
13 engineering project, what he calls a civil engineering  
14 project, and he's diverted to the local government to get  
15 a conditional use permit for that, I still don't know if  
16 the Board requires them to get a waste tire facility  
17 permit if he's going to move tires to the facility and use  
18 them for civil engineering. I think that needs to be  
19 cleared up. It's a fuzzy, gray area. Obviously I don't  
20 think that's necessarily an issue maybe for this bill, but  
21 it certainly should be a subject for some policy  
22 discussion.

23 On page 10, number 27, this is the -- this  
24 is once again dealing with the manifest, "Require the  
25 processor," the second sentence, "Require the processor to

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1 return a copy of the manifest to the State or its designee  
2 within 14 days." I think that's a good idea, but I think  
3 you have to expand the term "processor" to include the  
4 landfill, to include recyclers, to include an end user or  
5 whatever.

6 CHAIRMAN EATON: So that would be the  
7 definition of what constitutes a processor.

8 MR. LEVEILLE: I think you need to expand  
9 that a little bit to make it a little bit more clear.

10 I think as -- once again I'll state when  
11 you've got intent language on page 11 about the fact that  
12 waste tire stockpiles and the adverse effects of improper  
13 stock piles and fires will continue to grow, I think  
14 you're overstating the issue. It might have been a year  
15 ago. I think the Board has done a very good job in terms  
16 of cleaning up tires. I don't think the problem is going  
17 to grow, I think the problem is going to diminish as the  
18 Board continues with its programs.

19 It's got a couple million dollars allocated  
20 for next year's -- or for this year's cleanup contract,  
21 the new one that hasn't been led yet, with a 25 cents.  
22 Even with the 25 cents, you're talking a couple million  
23 dollars a year just to clean up tire piles. I think it's  
24 worked pretty good for as little money as the State has  
25 had.

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1                   Page 12, right at the top, your comments on  
2 the tire fee. "The two-year objective of removing all  
3 tire piles over 5,000 can be accomplished only through  
4 increasing the funding. Raising the fee from 25 cents to  
5 \$2 equates to a \$40 million annual tire program." Once  
6 again, I think you're overdrawing the problem and it's  
7 going to be -- when legislators ask how many tires are  
8 there out there, I think it's a hard sell. I think it's  
9 going to be a hard sell and I think you have to relook at  
10 that or at least get some very good figures and maybe  
11 expand what you consider a tire pile.

12                   Finally, I was taken a little aback by the  
13 proposal on how you divvy up the tire fund on the back  
14 page, page 15. You're basically throwing out there 104  
15 percent or something like that. It's over a hundred  
16 percent. You explain it exceeds 100 percent to allow for  
17 flexibility. Just my own thinking, why go down into all  
18 these details? Why not just maybe make three  
19 categories -- one for administration, one for permitting  
20 and enforcement including cleanups, and one for market  
21 development -- and just make two or three categories and  
22 then you -- and making it a hundred percent and then  
23 you've got that flexibility.

24                   You could have the flexibility.  
25 Environmental service and technology development I can see

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1 is a part of market development under the broad aegis of  
2 market development. I just wonder if people will look  
3 askance at something that equates to over a hundred  
4 percent when you're talking about divvying up the tire  
5 fee.

6                   The 10 percent for public education, \$4  
7 million we're talking about, approximately. Tire dealers'  
8 associations throughout the state are going to say hey,  
9 give us some brochures and we'll make sure that every tire  
10 dealer in the state gives every customer a brochure and we  
11 can do it for \$40,000. Fold that into a larger thing  
12 under market development. This is going to be -- this is  
13 going to be a target and I think you're going to run into  
14 some problems with the legislators, with recalcitrant  
15 legislators who may balk at the entire fee itself.

16                   What are we talking about here? What is  
17 public education? Is it tell people to inflate their tire  
18 properly? Tell people to take their tires to a registered  
19 hauler? Most people, you know, really their activities as  
20 far as tires go they take them to COSTCO or an independent  
21 tire dealer, they get four new tires and pay a buck or two  
22 bucks a tire to the tire dealer and that's all they have  
23 to do with them. Usually the tire dealer will give them a  
24 little thing on how to inflate properly and that's the  
25 best way you can make your tires last longer.

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1                   I think that you really might want to take  
2 a look at that specific section and think about making it  
3 a little simpler and making yourself less a target for  
4 wondering how we can get over a hundred percent for that  
5 thing.

6                   That's really as much as I wanted to say.  
7 I think that the overall tenor of the bill is very good.  
8 Obviously the AB 117 report had some great ideas and it's  
9 still going to be an uphill battle in the legislature.  
10 Once there is an agreement with the fee, I think it will  
11 be a lot easier, but as long as that \$2 fee is in there,  
12 it's going to be a real tough sell at this point.

13                  CHAIRMAN EATON: Any questions?

14                  MR. LEVEILLE: Thank you.

15                  CHAIRMAN EATON: Thank you for your keen  
16 observations, and I think that a lot of that should be  
17 incorporated. I know that you'll be a part of that  
18 process if and when it moves to downtown, and I look  
19 forward to doing those things, as well as I think all of  
20 the other Board Members who will be participating as well  
21 in some of those. Hopefully you'll have an opportunity to  
22 read the analysis later on and be able to communicate back  
23 to us any additional comments. It will be greatly  
24 appreciated.

25                  BOARD MEMBER PENNINGTON: Mr. Chairman, one

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1 comment that I would like to make.

2 CHAIRMAN EATON: Sure. Mr. Pennington.

3 BOARD MEMBER PENNINGTON: I understood that  
4 Mr. Leveille said -- he was suggesting that the tire  
5 problem be handled at the local level as opposed to the  
6 state level. I think we've got quite a few good examples  
7 of where local level has not dealt with the tire problem  
8 in a very good manner, so I'm not sure that I think the  
9 local level is the right level for it. Certainly two  
10 jurisdictions that had major fires.

11 BOARD MEMBER JONES: Are the poster  
12 children?

13 (Laughter)

14 BOARD MEMBER PENNINGTON: Poster children  
15 for not accepting local government to do it.

16 CHAIRMAN EATON: On the other hand there's  
17 a bit of truth that in that way the local officials have  
18 dealt with it.

19 BOARD MEMBER ROBERTI: They dealt with it.

20 (Laughter)

21 CHAIRMAN EATON: Exactly.

22 BOARD MEMBER JONES: Mr. Chairman.

23 CHAIRMAN EATON: Mr. Jones.

24 BOARD MEMBER JONES: I think Mr. Leveille  
25 brings up a lot of good points. I think that we do need

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1 to include a discussion about identifying a hauler that  
2 has a permit revoked and the -- how do we track where that  
3 hauler is going to end up. We're dealing with that with  
4 some others. I don't know the logistics of how that can  
5 work legally, but I think that's critical.

6 I think the other thing, too, number 27 on  
7 page 10, when it talks about the generator and the end  
8 user, we've had discussions. My office has had  
9 discussions with people on the manifest system. If you  
10 remember originally in 117 when I brought up the idea, I  
11 think it's critical that this needs to be expanded to be  
12 the generator, the hauler and the end user, and then that  
13 goes to the heart of what Mr. Leveille is talking about.

14 Right now there is an issue as to just how  
15 many tires are out there. We've seen the number vary  
16 depending upon who's counting or what the fires have  
17 consumed. We don't have an accurate number. We're not  
18 going to have an accurate number unless we come up with a  
19 manifest system that more closely defines it, and then we  
20 will have an accurate number.

21 We need to sell the idea of that  
22 three-piece manifest not only on the permitting side,  
23 market development side, but also on quantifying the  
24 extent of the problem on where our market development and  
25 permitting need to be focused, but it will give us the

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1 mechanism to determine once and for all how many tires are  
2 out there on the road in commerce, that and once it's  
3 implemented and operating for a while may have an impact  
4 on the fee and what that appropriate level of funding is  
5 once we know the information. Got it?

6 CHAIRMAN EATON: Absolutely. All right.  
7 With respect to that, I would move that we adopt to  
8 support position, but also in addition ask that staff to  
9 continue to come back and keep us informed on some of the  
10 other issues that have been raised as the bill begins to  
11 move through. And I think it's going to take some time  
12 yet before it's actually heard, but I think at least it  
13 would have the Board and give the author the necessary  
14 support that she needs to begin the process.

15 BOARD MEMBER PENNINGTON: I'll second.

16 CHAIRMAN EATON: All right. Mr. Eaton  
17 moves and Mr. Pennington seconds that we adopt a support  
18 position with regard to Senate Bill 876.

19 Madam Secretary, would you please call the  
20 roll.

21 BOARD SECRETARY: Board Members Jones.

22 BOARD MEMBER JONES: Aye.

23 BOARD SECRETARY: Moulton-Patterson.

24 BOARD MEMBER MOULTON-PATTERSON: Aye.

25 BOARD SECRETARY: Pennington.

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1 BOARD MEMBER PENNINGTON: Aye.

2 BOARD SECRETARY: Roberti.

3 BOARD MEMBER ROBERTI: Aye.

4 BOARD SECRETARY: Chairman Eaton.

5 CHAIRMAN EATON: Aye.

6 BOARD MEMBER JONES: Mr. Chairman, one  
7 question on that motion. Terry's idea of breaking this  
8 into three categories instead of specifically listing  
9 funding would allow us to put research and development in  
10 there and a few other things to leave it in broader  
11 categories, does that make sense?

12 CHAIRMAN EATON: Well, yeah. Part of that  
13 is one we will raise with the author's office and that's  
14 one of the things for the director to go back through. I  
15 think that's going to be some of the categories. I think  
16 no doubt that they will pretty much dictate some of that  
17 and I think Mr. Leveille's observations that they will  
18 inquire with a fine tooth comb as to those categories and  
19 percentages and appropriate levels will take place in the  
20 ongoing process.

21 BOARD MEMBER JONES: Got it.

22 CHAIRMAN EATON: That having completed all  
23 the other items, I will ask if there's any members of the  
24 public who wish to comment during our public comment  
25 period. Hearing none, seeing none, then this January

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1 meeting stands adjourned. Board Members, we have a short  
2 closed session, and thank you very much for your two days  
3 of long and hard work.

4                   One other thing I should mention just  
5 before closing is that as you know, next month we are  
6 scheduled to go to Santa Clarita. Due to a number of  
7 items that are going to be on the agenda, as well as Board  
8 Member commitments and other things, we will now just  
9 change that from going to Santa Clarita in February and  
10 actually go in March. So therefore a lot of those items  
11 of jurisdictions that are going to be before us can attend  
12 the meeting as well. So we'll just reverse those two, and  
13 that notice is going to go out, as I understand it,  
14 tomorrow.

15                   All right. Thank you.

16                   \* \* \*

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1 STATE OF CALIFORNIA

2

3

4 I, Terri L. Emery, CSR 11598, a Certified  
5 Shorthand Reporter in and for the State of California, do  
6 hereby certify:

7 That the foregoing proceedings were taken  
8 down by me in shorthand at the time and place named  
9 therein and was thereafter transcribed under my  
10 supervision; that this transcript contains a full, true  
11 and correct record of the proceedings which took place at  
12 the time and place set forth in the caption hereto.

13

14

15 I further certify that I have no interest  
16 in the event of the action.

17

18

19 EXECUTED this 25th day of February, 2000.

20

21

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23

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Terri L. Emery

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